BILL ANALYSIS

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1489 amends current law relating to educational, juvenile justice, and criminal justice responses to truancy.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 25.094(a), Education Code, to provide that an individual commits an offense under certain circumstances, including if the individual is 12 years of age or older and younger than 18 years of age.

SECTION 2. Amends Section 51.03, Family Code, by adding Subsection (e-1), to define, notwithstanding any other law, for purposes of conduct described by Subsection (b)(2) (relating to conduct indicating a need for supervision is the absence of a child on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school), "child."

SECTION 3. Amends Sections 54.021(a) and (b), Family Code, as follows:

> (a) Authorizes the juvenile court to waive its exclusive original jurisdiction and transfer a child to the constitutional county court, if the county has a population of two million or more, or to an appropriate justice or municipal court, with the permission of the county, justice, or municipal court, for disposition in the manner provided by Subsection (b) if the child is 12 years of age or older and is alleged to have engaged in conduct described in Section 51.03(b)(2).

> (b) Authorizes a county, justice, or municipal court, to exercise jurisdiction over a person alleged to have engaged in conduct indicating a need for supervision by engaging in conduct described in Section 51.03(b)(2) in certain cases, including in a case where the person is 12 years of age or older.

SECTION 4. Amends Chapter 54, Family Code, by adding Section 54.0402, as follows:

> Sec. 54.0402. DISPOSITIONAL ORDER FOR FAILURE TO ATTEND SCHOOL. Provides that a dispositional order regarding conduct under Section 51.03(b)(2) is effective for the period specified by the court in the order but is prohibited from extending beyond the 180th day after the date of the order or beyond the end of the school year in which the order was entered, whichever period is longer.

SECTION 5. Amends Section 54.05, Family Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

> (a) Authorizes any disposition, except a commitment to the Texas Youth Commission (TYC), except as provided by Subsection (a-1), to be modified by the juvenile court as

provided in this section until the child reaches his 18th birthday, or the child is earlier discharged by the court or operation of law.

(a-1)   Authorizes a disposition regarding conduct under Section 51.03(b)(2) to be modified by the juvenile court as provided by this section until the expiration of the period described by Section 54.0402.

(b)   Provides that, except for a commitment to TYC or a disposition under Section 54.0402, all dispositions automatically terminate when the child reaches his 18th birthday.

SECTION 6.   Amends Article 45.054, Code of Criminal Procedure, by adding Subsections (i) and (j), as follows:

(i)   Requires a county, justice, or municipal court to dismiss the complaint against an individual alleging that the individual committed an offense under Section 25.094, Education Code, if:

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

(2)   the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate.

(j)   Authorizes a county, justice, or municipal court to waive or reduce a fee or court cost imposed under this article if the court finds that payment of the fee or court cost would cause financial hardship.

SECTION 7.   Amends Article 45.055, Code of Criminal Procedure, by amending Subsection (a) and adding Subsection (e), as follows:

(a)   Authorizes an individual convicted of not more than one violation of Section 25.094, Education Code, except as provided by Subsection (e), on or after the individual's 18th birthday, to apply to the court in which the individual was convicted to have the conviction and records relating to the conviction expunged.

(e)   Requires a court to expunge an individual's conviction under Section 25.094, Education Code, and records relating to a conviction, regardless of whether the individual has previously been convicted of an offense under that section, if:

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

(2)   before the individual's 21st birthday, the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate.

SECTION 8.   Amends Articles 102.0174(b) and (c), Code of Criminal Procedure, as follows:

(b) Authorizes the governing body of a municipality by ordinance to create a juvenile case manager fund and to require a defendant convicted of a fine-only misdemeanor offense in a municipal court to pay a juvenile case manager fee not to exceed $5 as a cost of court if the municipality employs a juvenile case manager. Prohibits a municipality that does not employ a juvenile case manager from collecting a fee under this subsection.

(c) Authorizes the commissioners court of a county by order to create a juvenile case manager fund and to require a defendant convicted of a fine-only misdemeanor offense in a justice court, county court, or county court at law to pay a juvenile case manager fee not to exceed $5 as a cost of court if the court employs a juvenile case manager. Prohibits a

justice court, county court, or county court at law that does not employ a juvenile case manager from collecting a fee under this subsection.

SECTION 9. Amends Sections 25.091(a) and (b), Education Code, as follows:

(a) Provides that a peace officer serving as an attendance officer has certain powers and duties concerning enforcement of compulsory school attendance requirements, including to enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Section 25.0915 to the student; and if the truancy prevention measures fail to meaningfully address the student's conduct, referring the student to a juvenile court or filing a complaint against the student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Section 25.094 (Failure to Attend School) or under Section 51.03(b)(2) (providing that conduct indicating a need for supervision is the absence of a child on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school), Family Code, or filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093 (Parent Contributing to Nonattendance). Makes nonsubstantive changes.

(b) Provides that an attendance officer employed by a school district who is not commissioned as a peace officer has certain powers and duties with respect to enforcement of compulsory school attendance requirements, including to enforce compulsory school attendance requirements by applying truancy prevention measures adopted under Section 25.0915 to the student; and if the truancy prevention measures fail to meaningfully address the student's conduct referring the student to a juvenile court or filing a complaint against the 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 filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093; and

SECTION 10. Amends Subchapter C, Chapter 25, Education Code, by adding Section 25.0915, as follows:

Sec. 25.0915. TRUANCY PREVENTION MEASURES; REFERRAL AND FILING REQUIREMENT. (a) Requires a school district to adopt truancy prevention measures designed to:

(1) address student conduct related to truancy in the school setting;

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

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

(b) Requires that each referral to juvenile court for conduct described by Section 51.03(b)(2), Family Code, or complaint filed in county, justice, or municipal court alleging a violation by a student of Section 25.094:

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

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

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

(2) specify whether the student is eligible for or receives special education services under Subchapter A (Special Education Program), Chapter 29 (Educational Programs).

SECTION 11. Amends Section 58.106, Family Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Provides that, except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the Department of Public Safety of the State of Texas (DPS) and may not be disseminated by DPS except under certain circumstances, including to a county, justice, or municipal court exercising jurisdiction over a juvenile under Section 54.021 (County, Justice, or Municipal Court: Truancy).

(a-1) Provides that information disseminated under Subsection (a) remains confidential after dissemination and may be disclosed by the recipient only as provided by this title.

SECTION 12. Reenacts Section 102.061, Government Code, as amended by Chapters 87 (S.B. 1969), 1172 (H.B. 3389), and 1183 (H.B. 3637), Acts of the 81st Legislature, Regular Session, 2009, and amends it to require the clerk of a statutory county court to collect certain fees and costs under the Code of Criminal Procedure on conviction of a defendant, including a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) not to exceed $5 if the court employs a juvenile case manager. Makes nonsubstantive changes.

SECTION 13. Reenacts Section 102.081, Government Code, as amended by Chapters 87 (S.B. 1969), 1172 (H.B. 3389), and 1183 (H.B. 3637), Acts of the 81st Legislature, Regular Session, 2009, and amends it to require the clerk of a county court to collect certain fees and costs under the Code of Criminal Procedure on conviction of a defendant, including a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) not to exceed $5 if the court employs a juvenile case manager. Makes nonsubstantive changes.

SECTION 14. Amends Section 102.101, Government Code, to require the clerk of a justice court to collect certain fees and costs under the Code of Criminal Procedure on conviction of a defendant, including a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) not to exceed $5 if the court employs a juvenile case manager.

SECTION 15. Amends Section 102.121, Government Code, to require the clerk of a municipal court to collect certain fees and costs on conviction of a defendant, including a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure), not to exceed $5 if the municipality employs a juvenile case manager.

SECTION 16. Repealer: Article 45.056(e) (relating to the authority to employ juvenile case managers), Code of Criminal Procedure.

SECTION 17. Makes application of this Act prospective.

SECTION 18. Provides that to the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 19. Effective date: September 1, 2011.