

## **BILL ANALYSIS**

C.S.S.B. 1489  
By: Whitmire  
Corrections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law requires children from the ages of six to 17, with certain exceptions, to attend school. If a child has a certain number of unexcused absences within certain periods of time, the child is considered to be in violation of laws relating to a failure to attend school. Violators may be referred to certain courts. Interested parties state that exposure to criminal courts for this behavior has not proved to deter truancy and only leaves Texas youth with records that will negatively affect their future.

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

### **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**

C.S.S.B. 1489 amends the Education Code to make provisions of law relating to a failure to attend school inapplicable to a person subject to a policy adopted by the board of trustees of a school district requiring compulsory school attendance of a person who voluntarily enrolls in or attends school after the person's 18th birthday and is under 21 years of age. The bill adds to the conditions that constitute the offense of failure to attend school that the individual committing the offense be 12 years of age or older and younger than 18 years of age.

C.S.S.B. 1489 amends the Family Code to define "child," for purposes of conduct indicating a need for supervision involving 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, as a person who is 10 years of age or older, alleged or found to have engaged in the conduct as a result of acts committed before becoming 18 years of age, and required to attend school under provisions of law relating to compulsory school attendance. The bill includes among the conditions that must exist for the authorization of a juvenile court to waive its exclusive original jurisdiction and transfer a child alleged to have engaged in truancy to certain other courts that the child is 12 years of age or older and includes among the conditions that must exist in a truancy case for the authorization of those other courts to exercise jurisdiction over the case that the child is 12 years of age or older. The bill specifies that a dispositional order regarding conduct indicating a need for supervision involving truancy is effective for the period specified by the court in the order and prohibits such an order from extending beyond the 180th day after the date of the order or beyond the of the school year in which the order was entered, whichever period is longer. The bill authorizes such a disposition to be modified by the juvenile court as provided by law until the expiration of the previously described period and makes conforming changes.

C.S.S.B. 1489 amends the Code of Criminal Procedure to require a county, justice, or municipal

court to dismiss the complaint against an individual alleging that the individual committed an offense of failure to attend school if the court finds that the individual has successfully complied with the conditions imposed on the individual by the court or the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate. The bill authorizes such a court to waive or reduce a fee or court cost imposed under provisions of law relating to failure to attend school proceedings if the court finds that payment of the fee or court cost would cause financial hardship.

C.S.S.B. 1489 requires a court to expunge an individual's conviction of failure to attend school and records relating to a conviction, regardless of whether the individual has previously been convicted of such an offense, if the court finds that the individual has successfully complied with the conditions imposed on the individual by the court or, 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. The bill prohibits a municipal court, justice court, county court, or county court at law that does not employ a juvenile case manager from collecting a juvenile case manager fee from a defendant convicted of a fine-only misdemeanor offense in the respective court. The bill repeals a provision of law requiring a juvenile case manager employed by a county, justice, or municipal court to work primarily on cases brought under provisions of law relating to failure to attend school and the contribution of a parent to a student's nonattendance.

C.S.S.B. 1489 amends the Education Code, in provisions of law authorizing a peace officer serving as an attendance officer and an attendance officer employed by a school district who is not commissioned as a peace officer to enforce compulsory school attendance requirements by referring a student to a specified court or filing a complaint against the student in a specified court, specifies that the officer is required to enforce such requirements by first applying truancy prevention measures adopted under the bill's provisions to the student and, if the truancy prevention measures fail to meaningfully address the student's conduct, to then refer or file the complaint as previously described. The bill requires a school district to adopt truancy prevention measures designed to address student conduct related to truancy in the school setting; minimize the need for referrals to juvenile court for conduct indicating a need for supervision involving truancy; and minimize the filing of complaints in county, justice, and municipal courts alleging a violation of provisions of law relating to a failure to attend school. The bill requires each referral to juvenile court for conduct indicating a need for supervision involving truancy, or complaint filed in county, justice, or municipal court alleging a violation by a student of provisions of law relating to a failure to attend school to be accompanied by a statement from the student's school certifying that the school applied the required truancy prevention measures to the student and that such measures failed to meaningfully address the student's school attendance and requires each such referral to specify whether the student is eligible for or receives special education services.

C.S.S.B. 1489 amends the Government Code and reenacts and amends Sections 102.061 and 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, to make conforming changes in provisions of law relating to the collection of a juvenile case manager fee on conviction in certain courts.

C.S.S.B. 1489 specifies that, to the extent of any conflict, its provisions prevail over another act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes. The bill makes conforming and nonsubstantive changes.

C.S.S.B. 1489 repeals Article 45.056(e), Code of Criminal Procedure.

#### **EFFECTIVE DATE**

September 1, 2011.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.S.B. 1489 contains a provision not included in the original making statutory provisions regarding failure to attend school inapplicable to a person who voluntarily enrolls in or attends school after the person's 18th birthday and is under 21 years of age.

C.S.S.B. 1489 omits provisions included in the original removing a provision of law authorizing the prosecution of an offense of failure to attend school to be in a municipal court in the municipality in which the individual resides or in which the school is located. The substitute omits provisions included in the original making conforming changes related to the removal of a municipal court's jurisdiction in cases involving such a truancy offense or related conduct.

C.S.S.B. 1489 omits provisions contained in the original removing the authority of a municipal court to employ a juvenile case manager and making conforming changes related to the removal of that authority. The substitute contains provisions not included in the original prohibiting certain courts that do not employ a juvenile case manager from collecting a juvenile case manager fee and making conforming changes in statutory provisions relating to the collection of such a fee.

C.S.S.B. 1489 contains a provision not included in the original requiring each referral to juvenile court for or complaint filed in a justice, county, or municipal court alleging truancy-related conduct to specify whether the student is eligible for or receives special education services.

C.S.S.B. 1489 contains a provision not included in the original repealing a provision of law requiring a juvenile case manager employed by a county, justice, or municipal court to work primarily on cases brought under provisions of law relating to failure to attend school or the contribution of a parent to a student's nonattendance. The substitute omits provisions included in the original repealing the authority of the governing body of a municipality to create a juvenile case manager fund and require certain defendants convicted in municipal court to pay a juvenile case manager fee, repealing a statutory provision relating to truancy-related court costs collected in municipalities, and making conforming changes to reflect the repeals. The substitute omits a provision included in the original providing for the abolishment of juvenile case manager funds created in a municipality and the transfer of money in such a fund to the municipal treasury.

C.S.S.B. 1489 contains a provision not included in the original specifying that, to the extent of any conflict, the bill's provisions prevail over another act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes. The substitute differs from the original in nonsubstantive ways reflective of certain drafting conventions.