

By: Whitmire, et al.
(Madden)

S.B. No. 1489

Substitute the following for S.B. No. 1489:

By: Madden

C.S.S.B. No. 1489

A BILL TO BE ENTITLED

AN ACT

relating to educational, juvenile justice, and criminal justice responses to truancy.

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

SECTION 1. Section 25.085(f), Education Code, is amended to read as follows:

(f) The board of trustees of a school district may adopt a policy requiring a person described by Subsection (e) who is under 21 years of age to attend school until the end of the school year. Section 25.094 does not apply [~~applies~~] to a person subject to a policy adopted under this subsection. Sections 25.093 and 25.095 do not apply to the parent of a person subject to a policy adopted under this subsection.

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

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

(1) is 12 years of age or older and younger than 18 years of age;

(2) is required to attend school under Section 25.085; and

(3) [~~(2)~~] fails to attend school 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.

SECTION 3. Section 51.03, Family Code, is amended by adding

1 Subsection (e-1) to read as follows:

2 (e-1) Notwithstanding any other law, for purposes of
3 conduct described by Subsection (b)(2), "child" means a person who
4 is:

5 (1) 10 years of age or older;

6 (2) alleged or found to have engaged in the conduct as
7 a result of acts committed before becoming 18 years of age; and

8 (3) required to attend school under Section 25.085,
9 Education Code.

10 SECTION 4. Sections 54.021(a) and (b), Family Code, are
11 amended to read as follows:

12 (a) The juvenile court may waive its exclusive original
13 jurisdiction and transfer a child to the constitutional county
14 court, if the county has a population of two million or more, or to
15 an appropriate justice or municipal court, with the permission of
16 the county, justice, or municipal court, for disposition in the
17 manner provided by Subsection (b) if the child is 12 years of age or
18 older and is alleged to have engaged in conduct described in Section
19 51.03(b)(2). A waiver of jurisdiction under this subsection may be
20 for an individual case or for all cases in which a child is alleged
21 to have engaged in conduct described in Section 51.03(b)(2). The
22 waiver of a juvenile court's exclusive original jurisdiction for
23 all cases in which a child is alleged to have engaged in conduct
24 described in Section 51.03(b)(2) is effective for a period of one
25 year.

26 (b) A county, justice, or municipal court may exercise
27 jurisdiction over a person alleged to have engaged in conduct

1 indicating a need for supervision by engaging in conduct described
2 in Section 51.03(b)(2) in a case where:

- 3 (1) the person is 12 years of age or older;
- 4 (2) the juvenile court has waived its original
5 jurisdiction under this section; and
- 6 (3) [~~(2)~~] a complaint is filed by the appropriate
7 authority in the county, justice, or municipal court charging an
8 offense under Section 25.094, Education Code.

9 SECTION 5. Chapter 54, Family Code, is amended by adding
10 Section 54.0402 to read as follows:

11 Sec. 54.0402. DISPOSITIONAL ORDER FOR FAILURE TO ATTEND
12 SCHOOL. A dispositional order regarding conduct under Section
13 51.03(b)(2) is effective for the period specified by the court in
14 the order but may not extend beyond the 180th day after the date of
15 the order or beyond the end of the school year in which the order was
16 entered, whichever period is longer.

17 SECTION 6. Section 54.05, Family Code, is amended by
18 amending Subsections (a) and (b) and adding Subsection (a-1) to
19 read as follows:

20 (a) Except as provided by Subsection (a-1), any [~~Any~~]
21 disposition, except a commitment to the Texas Youth Commission, may
22 be modified by the juvenile court as provided in this section until:

- 23 (1) the child reaches his 18th birthday; or
- 24 (2) the child is earlier discharged by the court or
25 operation of law.

26 (a-1) A disposition regarding conduct under Section
27 51.03(b)(2) may be modified by the juvenile court as provided by

1 this section until the expiration of the period described by
2 Section 54.0402.

3 (b) Except for a commitment to the Texas Youth Commission or
4 a disposition under Section 54.0402, all dispositions
5 automatically terminate when the child reaches his 18th birthday.

6 SECTION 7. Article 45.054, Code of Criminal Procedure, is
7 amended by adding Subsections (i) and (j) to read as follows:

8 (i) A county, justice, or municipal court shall dismiss the
9 complaint against an individual alleging that the individual
10 committed an offense under Section 25.094, Education Code, if:

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

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

17 (j) A county, justice, or municipal court may waive or
18 reduce a fee or court cost imposed under this article if the court
19 finds that payment of the fee or court cost would cause financial
20 hardship.

21 SECTION 8. Article 45.055, Code of Criminal Procedure, is
22 amended by amending Subsection (a) and adding Subsection (e) to
23 read as follows:

24 (a) Except as provided by Subsection (e), an [An] individual
25 convicted of not more than one violation of Section 25.094,
26 Education Code, may, on or after the individual's 18th birthday,
27 apply to the court in which the individual was convicted to have the

1 conviction and records relating to the conviction expunged.

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

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

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

13 SECTION 9. Articles 102.0174(b) and (c), Code of Criminal
14 Procedure, are amended to read as follows:

15 (b) The governing body of a municipality by ordinance may
16 create a juvenile case manager fund and may require a defendant
17 convicted of a fine-only misdemeanor offense in a municipal court
18 to pay a juvenile case manager fee not to exceed \$5 as a cost of
19 court if the municipal court employs a juvenile case manager. A
20 municipal court that does not employ a juvenile case manager may not
21 collect a fee under this subsection.

22 (c) The commissioners court of a county by order may create
23 a juvenile case manager fund and may require a defendant convicted
24 of a fine-only misdemeanor offense in a justice court, county
25 court, or county court at law to pay a juvenile case manager fee not
26 to exceed \$5 as a cost of court if the court employs a juvenile case
27 manager. A justice court, county court, or county court at law that

1 does not employ a juvenile case manager may not collect a fee under
2 this subsection.

3 SECTION 10. Sections 25.091(a) and (b), Education Code, are
4 amended to read as follows:

5 (a) A peace officer serving as an attendance officer has the
6 following powers and duties concerning enforcement of compulsory
7 school attendance requirements:

8 (1) to investigate each case of a violation of
9 compulsory school attendance requirements referred to the peace
10 officer;

11 (2) to enforce compulsory school attendance
12 requirements by:

13 (A) applying truancy prevention measures adopted
14 under Section 25.0915 to the student; and

15 (B) if the truancy prevention measures fail to
16 meaningfully address the student's conduct:

17 (i) referring the [~~a~~] student to a juvenile
18 court or filing a complaint against the [~~a~~] student in a county,
19 justice, or municipal court if the student has unexcused absences
20 for the amount of time specified under Section 25.094 or under
21 Section 51.03(b)(2), Family Code; or [~~and~~]

22 (ii) [~~(B)~~] filing a complaint in a county,
23 justice, or municipal court against a parent who violates Section
24 25.093;

25 (3) to serve court-ordered legal process;

26 (4) to review school attendance records for compliance
27 by each student investigated by the officer;

1 (5) to maintain an investigative record on each
2 compulsory school attendance requirement violation and related
3 court action and, at the request of a court, the board of trustees
4 of a school district, or the commissioner, to provide a record to
5 the individual or entity requesting the record;

6 (6) to make a home visit or otherwise contact the
7 parent of a student who is in violation of compulsory school
8 attendance requirements, except that a peace officer may not enter
9 a residence without the permission of the parent of a student
10 required under this subchapter to attend school or of the tenant or
11 owner of the residence except to lawfully serve court-ordered legal
12 process on the parent; and

13 (7) to take a student into custody with the permission
14 of the student's parent or in obedience to a court-ordered legal
15 process.

16 (b) An attendance officer employed by a school district who
17 is not commissioned as a peace officer has the following powers and
18 duties with respect to enforcement of compulsory school attendance
19 requirements:

20 (1) to investigate each case of a violation of the
21 compulsory school attendance requirements referred to the
22 attendance officer;

23 (2) to enforce compulsory school attendance
24 requirements by:

25 (A) applying truancy prevention measures adopted
26 under Section 25.0915 to the student; and

27 (B) if the truancy prevention measures fail to

1 meaningfully address the student's conduct:

2 (i) referring the [a] student to a juvenile
3 court or filing a complaint against the [a] student in a county,
4 justice, or municipal court if the student has unexcused absences
5 for the amount of time specified under Section 25.094 or under
6 Section 51.03(b)(2), Family Code; and

7 (ii) [~~B~~] filing a complaint in a county,
8 justice, or municipal court against a parent who violates Section
9 25.093;

10 (3) to monitor school attendance compliance by each
11 student investigated by the officer;

12 (4) to maintain an investigative record on each
13 compulsory school attendance requirement violation and related
14 court action and, at the request of a court, the board of trustees
15 of a school district, or the commissioner, to provide a record to
16 the individual or entity requesting the record;

17 (5) to make a home visit or otherwise contact the
18 parent of a student who is in violation of compulsory school
19 attendance requirements, except that the attendance officer may not
20 enter a residence without permission of the parent or of the owner
21 or tenant of the residence;

22 (6) at the request of a parent, to escort a student
23 from any location to a school campus to ensure the student's
24 compliance with compulsory school attendance requirements; and

25 (7) if the attendance officer has or is informed of a
26 court-ordered legal process directing that a student be taken into
27 custody and the school district employing the officer does not

1 employ its own police department, to contact the sheriff,
2 constable, or any peace officer to request that the student be taken
3 into custody and processed according to the legal process.

4 SECTION 11. Subchapter C, Chapter 25, Education Code, is
5 amended by adding Section 25.0915 to read as follows:

6 Sec. 25.0915. TRUANCY PREVENTION MEASURES; REFERRAL AND
7 FILING REQUIREMENT. (a) A school district shall adopt truancy
8 prevention measures designed to:

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

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

13 (3) minimize the filing of complaints in county,
14 justice, and municipal courts alleging a violation of Section
15 25.094.

16 (b) Each referral to juvenile court for conduct described by
17 Section 51.03(b)(2), Family Code, or complaint filed in county,
18 justice, or municipal court alleging a violation by a student of
19 Section 25.094 must:

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

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

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

26 (2) specify whether the student is eligible for or
27 receives special education services under Subchapter A, Chapter 29.

1 SECTION 12. Section 102.061, Government Code, as amended by
2 Chapters 87 (S.B. 1969), 1172 (H.B. 3389), and 1183 (H.B. 3637),
3 Acts of the 81st Legislature, Regular Session, 2009, is reenacted
4 and amended to read as follows:

5 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN
6 STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a
7 statutory county court shall collect fees and costs under the Code
8 of Criminal Procedure on conviction of a defendant as follows:

9 (1) a jury fee (Art. 102.004, Code of Criminal
10 Procedure) . . . \$20;

11 (2) a fee for services of the clerk of the court
12 (Art. 102.005, Code of Criminal Procedure) . . . \$40;

13 (3) a records management and preservation services fee
14 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

15 (4) a county and district court technology fee
16 (Art. 102.0169, Code of Criminal Procedure) . . . \$4;

17 (5) a security fee on a misdemeanor offense
18 (Art. 102.017, Code of Criminal Procedure) . . . \$3;

19 (6) a juvenile delinquency prevention and graffiti
20 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
21 \$50; ~~and~~

22 (7) a juvenile case manager fee (Art. 102.0174, Code
23 of Criminal Procedure) . . . not to exceed \$5 if the court employs a
24 juvenile case manager; and

25 (8) (8) ~~(7)~~ a civil justice fee (Art. 102.022, Code of
26 Criminal Procedure) . . . \$0.10.

27 SECTION 13. Section 102.081, Government Code, as amended by

1 Chapters 87 (S.B. 1969), 1172 (H.B. 3389), and 1183 (H.B. 3637),
2 Acts of the 81st Legislature, Regular Session, 2009, is reenacted
3 and amended to read as follows:

4 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN
5 COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county
6 court shall collect fees and costs under the Code of Criminal
7 Procedure on conviction of a defendant as follows:

8 (1) a jury fee (Art. 102.004, Code of Criminal
9 Procedure) . . . \$20;

10 (2) a fee for clerk of the court services
11 (Art. 102.005, Code of Criminal Procedure) . . . \$40;

12 (3) a records management and preservation services fee
13 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

14 (4) a county and district court technology fee
15 (Art. 102.0169, Code of Criminal Procedure) . . . \$4;

16 (5) a security fee on a misdemeanor offense
17 (Art. 102.017, Code of Criminal Procedure) . . . \$3;

18 (6) a juvenile delinquency prevention and graffiti
19 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
20 \$50; ~~and~~

21 (7) a juvenile case manager fee (Art. 102.0174, Code
22 of Criminal Procedure) . . . not to exceed \$5 if the court employs a
23 juvenile case manager; and

24 (8) ~~(7)~~ a civil justice fee (Art. 102.022, Code of
25 Criminal Procedure) . . . \$0.10.

26 SECTION 14. Section 102.101, Government Code, is amended to
27 read as follows:

1 Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN
2 JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice
3 court shall collect fees and costs under the Code of Criminal
4 Procedure on conviction of a defendant as follows:

5 (1) a jury fee (Art. 102.004, Code of Criminal
6 Procedure) . . . \$3;

7 (2) a fee for withdrawing request for jury less than 24
8 hours before time of trial (Art. 102.004, Code of Criminal
9 Procedure) . . . \$3;

10 (3) a jury fee for two or more defendants tried jointly
11 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

12 (4) a security fee on a misdemeanor offense (Art.
13 102.017, Code of Criminal Procedure) . . . \$4;

14 (5) a fee for technology fund on a misdemeanor offense
15 (Art. 102.0173, Code of Criminal Procedure) . . . \$4;

16 (6) a juvenile case manager fee (Art. 102.0174, Code
17 of Criminal Procedure) . . . not to exceed \$5 if the court employs a
18 juvenile case manager;

19 (7) a fee on conviction of certain offenses involving
20 issuing or passing a subsequently dishonored check (Art. 102.0071,
21 Code of Criminal Procedure) . . . not to exceed \$30;

22 (8) a court cost on conviction of a Class C misdemeanor
23 in a county with a population of 3.3 million or more, if authorized
24 by the county commissioners court (Art. 102.009, Code of Criminal
25 Procedure) . . . not to exceed \$7; and

26 (9) a civil justice fee (Art. 102.022, Code of
27 Criminal Procedure) . . . \$0.10.

1 SECTION 15. Section 102.121, Government Code, is amended to
2 read as follows:

3 Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN
4 MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a
5 municipal court shall collect fees and costs on conviction of a
6 defendant as follows:

7 (1) a jury fee (Art. 102.004, Code of Criminal
8 Procedure) . . . \$3;

9 (2) a fee for withdrawing request for jury less than 24
10 hours before time of trial (Art. 102.004, Code of Criminal
11 Procedure) . . . \$3;

12 (3) a jury fee for two or more defendants tried jointly
13 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

14 (4) a security fee on a misdemeanor offense (Art.
15 102.017, Code of Criminal Procedure) . . . \$3;

16 (5) a fee for technology fund on a misdemeanor offense
17 (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4;

18 (6) a juvenile case manager fee (Art. 102.0174, Code
19 of Criminal Procedure) . . . not to exceed \$5 if the court employs a
20 juvenile case manager; and

21 (7) a civil justice fee (Art. 102.022, Code of
22 Criminal Procedure) . . . \$0.10.

23 SECTION 16. Subsection (e), Article 45.056, Code of
24 Criminal Procedure, is repealed.

25 SECTION 17. The change in law made by this Act applies only
26 to conduct that occurs on or after the effective date of this Act.
27 Conduct that occurs before the effective date of this Act is

1 governed by the law in effect at the time the conduct occurred, and
2 the former law is continued in effect for that purpose. For
3 purposes of this section, conduct occurs before the effective date
4 of this Act if any element of the violation occurs before that date.

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

9 SECTION 19. This Act takes effect September 1, 2011.