

By: Whitmire

S.B. No. 47

A BILL TO BE ENTITLED

AN ACT

relating to the prevention of truancy and the offense of failure to attend school.

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

SECTION 1. Subsection (i), Article 45.054, Code of Criminal Procedure, is amended to read as follows:

(i) A county, justice, or municipal court shall 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 after taking a high school equivalency examination administered under Section 7.111, Education Code.

SECTION 2. Subsection (e), Article 45.055, Code of Criminal Procedure, is amended to read as follows:

(e) A court shall 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

1 by the court under Article 45.054; or

2 (2) before the individual's 21st birthday, the
3 individual presents to the court proof that the individual has
4 obtained a high school diploma or a high school equivalency
5 certificate after taking a high school equivalency examination
6 administered under Section 7.111, Education Code.

7 SECTION 3. Subsection (a), Article 45.056, Code of Criminal
8 Procedure, is amended to read as follows:

9 (a) On approval of the commissioners court, city council,
10 [~~school district board of trustees,~~] juvenile board, or other
11 appropriate authority, a county court, justice court, municipal
12 court, [~~school district,~~] juvenile probation department, or other
13 appropriate governmental entity may~~+~~

14 [~~(1)~~] employ a case manager or agree, in accordance
15 with Chapter 791, Government Code, with any appropriate
16 governmental entity to jointly employ a case manager or to jointly
17 contribute to the costs of a case manager employed by one
18 governmental entity to provide services in cases involving juvenile
19 offenders before a court consistent with the court's statutory
20 powers~~, or~~

21 [~~(2) agree in accordance with Chapter 791, Government~~
22 ~~Code, to jointly employ a case manager].~~

23 SECTION 4. Section 25.085, Education Code, is amended by
24 amending Subsection (e) and adding Subsections (g) and (h) to read
25 as follows:

26 (e) A person who voluntarily enrolls in school or
27 voluntarily attends school after the person's 18th birthday shall

1 attend school each school day for the entire period the program of
2 instruction is offered. A school district may revoke for the
3 remainder of the school year the enrollment of a person who has more
4 than five absences in a semester that are not excused under Section
5 25.087, except that a school district may not revoke the enrollment
6 of a person under this subsection on a day on which the person is
7 physically present at school. A person whose enrollment is revoked
8 under this subsection may be considered an unauthorized person on
9 school district grounds for purposes of Section 37.107.

10 (g) After the third unexcused absence of a person described
11 by Subsection (e), a school district shall issue a warning letter to
12 the person that states the person's enrollment may be revoked for
13 the remainder of the school year if the person has more than five
14 unexcused absences in a semester.

15 (h) As an alternative to revoking a person's enrollment
16 under Subsection (e), a school district may impose a behavior
17 improvement plan described by Section 25.0915(b)(1).

18 SECTION 5. Section 25.0915, Education Code, is amended to
19 read as follows:

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

23 (1) address student conduct related to truancy in the
24 school setting before the student violates Section 25.094;

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

27 (3) minimize the filing of complaints in county,

1 justice, and municipal courts alleging a violation of Section
2 25.094.

3 (b) As a truancy prevention measure under Subsection (a), a
4 school district may take one or more of the following actions:

5 (1) impose:

6 (A) a behavior improvement plan on the student
7 that must be signed by an employee of the school, that the school
8 district has made a good faith effort to have signed by the student
9 and the student's parent or guardian, and that includes:

10 (i) a specific description of the behavior
11 that is required or prohibited for the student;

12 (ii) the period for which the plan will be
13 effective, not to exceed 45 school days after the date the contract
14 becomes effective; or

15 (iii) the penalties for additional
16 absences, including additional disciplinary action or the referral
17 of the student to a juvenile court; or

18 (B) school-based community service; or

19 (2) refer the student to counseling, community-based
20 services, or other in-school or out-of-school services aimed at
21 addressing the student's truancy.

22 (c) A referral made under Subsection (b)(2) may include
23 participation by the child's parent or guardian if necessary.

24 (d) Each referral to juvenile court for conduct described by
25 Section 51.03(b)(2), Family Code, or complaint filed in county,
26 justice, or municipal court alleging a violation by a student of
27 Section 25.094 must:

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

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

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

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

9 (e) Except as provided by Subsection (f), a school district
10 shall employ a truancy prevention facilitator to implement the
11 truancy prevention measures required by this section and any other
12 effective truancy prevention measures as determined by the school
13 district or campus. At least annually, the truancy prevention
14 facilitator shall meet to discuss effective truancy prevention
15 measures with a case manager or other individual designated by a
16 juvenile or criminal court to provide services to students of the
17 school district in truancy cases.

18 (f) Instead of employing a truancy prevention facilitator,
19 a school district may designate an existing district employee to
20 implement the truancy prevention measures required by this section
21 and any other effective truancy prevention measures as determined
22 by the school district or campus.

23 SECTION 6. Subchapter C, Chapter 25, Education Code, is
24 amended by adding Section 25.0916 to read as follows:

25 Sec. 25.0916. UNIFORM TRUANCY POLICIES IN CERTAIN COUNTIES.

26 (a) This section applies only to a county:

27 (1) with a population greater than 1.5 million; and

1 (2) that includes at least:

2 (A) 15 school districts with the majority of
3 district territory in the county; and

4 (B) one school district with a student enrollment
5 of 50,000 or more and an annual dropout rate spanning grades 9-12 of
6 at least five percent, computed in accordance with standards and
7 definitions adopted by the National Center for Education Statistics
8 of the United States Department of Education.

9 (b) A committee shall be established to recommend a uniform
10 truancy policy for each school district located in the county.

11 (c) Not later than September 1, 2013, the county judge and
12 the mayor of the municipality in the county with the greatest
13 population shall each appoint one member to serve on the committee
14 as a representative of each of the following:

15 (1) a juvenile district court;

16 (2) a municipal court;

17 (3) the office of a justice of the peace;

18 (4) the superintendent or designee of an independent
19 school district;

20 (5) an open-enrollment charter school;

21 (6) the office of the district attorney; and

22 (7) the general public.

23 (d) Not later than September 1, 2013, the county judge shall
24 appoint to serve on the committee one member from the house of
25 representatives and one member from the senate who are members of
26 the respective standing legislative committees with primary
27 jurisdiction over public education.

1 (e) The county judge and mayor of the municipality in the
2 county with the greatest population shall:

3 (1) both serve on the committee or appoint
4 representatives to serve on their behalf; and

5 (2) jointly appoint a member of the committee to serve
6 as the presiding officer.

7 (f) Not later than September 1, 2014, the committee shall
8 recommend:

9 (1) a uniform process for filing truancy cases with
10 the judicial system;

11 (2) uniform administrative procedures;

12 (3) uniform deadlines for processing truancy cases;

13 (4) effective prevention, intervention, and diversion
14 methods to reduce truancy and referrals to a county, justice, or
15 municipal court;

16 (5) a system for tracking truancy information and
17 sharing truancy information among school districts and
18 open-enrollment charter schools in the county; and

19 (6) any changes to statutes or state agency rules the
20 committee determines are necessary to address truancy.

21 (g) Compliance with the committee recommendations is
22 voluntary.

23 (h) The committee's presiding officer shall issue a report
24 not later than December 1, 2015, on the implementation of the
25 recommendations and compliance with state truancy laws by a school
26 district located in the county.

27 (i) This section expires January 1, 2016.

1 SECTION 7. Subsection (e), Section 25.094, Education Code,
2 is amended to read as follows:

3 (e) An offense under this section is a [~~Class C~~] misdemeanor
4 punishable by a fine not to exceed:

5 (1) \$100 for a first offense;

6 (2) \$200 for a second offense;

7 (3) \$300 for a third offense;

8 (4) \$400 for a fourth offense; or

9 (5) \$500 for a fifth or subsequent offense.

10 SECTION 8. Subsections (a) and (b), Section 25.0951,
11 Education Code, are amended to read as follows:

12 (a) If a student fails to attend school without excuse on 10
13 or more days or parts of days within a six-month period in the same
14 school year, a school district shall within 10 school days of the
15 student's 10th absence:

16 (1) file a complaint against the student or the
17 student's parent or, if the district provides evidence that both
18 the student and the student's parent contributed to the student's
19 failure to attend school, both the student and the parent in a
20 county, justice, or municipal court for an offense under Section
21 25.093 or 25.094, as appropriate, or refer the student to a juvenile
22 court in a county with a population of less than 100,000 for conduct
23 that violates Section 25.094; or

24 (2) refer the student to a juvenile court for conduct
25 indicating a need for supervision under Section 51.03(b)(2), Family
26 Code.

27 (b) If a student fails to attend school without excuse on

1 three or more days or parts of days within a four-week period but
2 does not fail to attend school for the time described by Subsection
3 (a), the school district may:

4 (1) file a complaint against the student or the
5 student's parent or, if the district provides evidence that both
6 the student and the student's parent contributed to the student's
7 failure to attend school, both the student and the parent in a
8 county, justice, or municipal court for an offense under Section
9 25.093 or 25.094, as appropriate, or refer the student to a juvenile
10 court in a county with a population of less than 100,000 for conduct
11 that violates Section 25.094; or

12 (2) refer the student to a juvenile court for conduct
13 indicating a need for supervision under Section 51.03(b)(2), Family
14 Code.

15 SECTION 9. The changes in law made by this Act apply only to
16 conduct violating Section 25.094, Education Code, on or after the
17 effective date of this Act. A violation that occurs before the
18 effective date of this Act is covered by the law in effect when the
19 violation occurred, and the former law is continued in effect for
20 that purpose. For purposes of this section, a violation occurs
21 before the effective date of this Act if any element of the
22 violation occurs before that date.

23 SECTION 10. This Act takes effect on the 91st day after the
24 last day of the legislative session.