

BILL ANALYSIS

Senate Research Center

S.B. 1234
By: Whitmire
Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law states that every child from the ages of six to 17 is required by law to attend school. If the child has 10 or more unexcused absences within a six-month period, or three or more unexcused absences within a four-week period, the child is considered truant. Truancy is currently a Class C misdemeanor. Violators may be referred to county, municipal, justice, and juvenile courts. The intent of this bill is to reduce the exposure of Texas children to the criminal justice system.

S.B. 1234 amends current law relating to the prevention of truancy and the offense of failure to attend school.

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 Article 45.054(i), 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 under Section 25.094 (Failure to Attend School), Education Code, under certain circumstances, including if 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 (High School Equivalency Examinations), Education Code.

SECTION 2. Amends Article 45.055(e), Code of Criminal Procedure, to require 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 under certain circumstances, including if the individual, before the individual's 21st birthday, 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 3. Amends Article 45.056(a), Code of Criminal Procedure, as follows:

(a) Authorizes a county court, justice court, municipal court, juvenile probation department, or other appropriate governmental entity, on approval of the commissioners court, city council, juvenile board, or other appropriate authority, to employ a case manager or agree, in accordance with Chapter 791 (Interlocal Cooperation Contracts), Government Code, with any appropriate governmental entity to jointly employ a case manager or to jointly contribute to the costs of a case manager employed by one governmental entity to provide services in cases involving juvenile offenders before a court consistent with the court's statutory powers.

Deletes existing text authorizing a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity, on approval of the commissioners court, city council, school district board of trustees,

juvenile board, or other appropriate authority, to employ a case manager to provide services in cases involving juvenile offenders before a court consistent with the court's statutory powers, or agree in accordance with Chapter 791, Government Code, to jointly employ a case manager.

SECTION 4. Amends Section 25.085, Education Code, by amending Subsection (e) and adding Subsections (g) and (h), as follows:

(e) Requires a person who voluntarily enrolls in school or voluntarily attends school after the person's 18th birthday to attend school each school day for the entire period the program of instruction is offered. Authorizes a school district to revoke for the remainder of the school year the enrollment of a person who has more than five absences in a semester that are not excused under Section 25.087 (Excused Absences), except that a school district is prohibited from revoking the enrollment of a person under this subsection on a day on which the person is physically present at school. Authorizes a person whose enrollment is revoked under this subsection to be considered an unauthorized person on school district grounds for purposes of Section 37.107 (Trespass on School Grounds).

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

(h) Authorizes a school district to impose a behavior improvement plan described by Section 25.0915(b)(1) as an alternative to revoking a person's enrollment under Subsection (e).

SECTION 5. Amends Section 25.0915, Education Code, as follows:

Sec. 25.0915. TRUANCY PREVENTION MEASURES; REFERRAL AND FILING REQUIREMENT. (a) Requires a school district to adopt truancy prevention measures designed for certain purposes, including to address student conduct related to truancy in the school setting before the student violates Section 25.094.

(b) Authorizes a school district, as a truancy prevention measure under Subsection (a), to take one or more of the following actions:

(1) impose:

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

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

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

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

(B) school-based community service; or

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

(c) Authorizes a referral made under Subsection (b)(2) to include participation by the child's parent or guardian if necessary.

(d) Creates this subsection from existing text and makes no further change.

(e) Requires a school district, except as provided by Subsection (f), to employ a truancy prevention facilitator to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus. Requires the truancy prevention facilitator, at least annually, to meet to discuss effective truancy prevention measures with a case manager or other individual designated by a juvenile or criminal court to provide services to students of the school district in truancy cases.

(f) Authorizes a school district to designate an existing district employee to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus instead of employing a truancy prevention facilitator.

SECTION 6. Amends Subchapter C, Chapter 25, Education Code, by adding Section 25.0916, as follows:

Sec. 25.0916. UNIFORM TRUANCY POLICIES IN CERTAIN COUNTIES.

(a) Provides that this section applies only to a county:

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

(2) that includes at least:

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

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

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

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

(1) a juvenile district court;

(2) a municipal court;

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

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

(5) an open-enrollment charter school;

(6) the office of the district attorney; and

(7) the general public.

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

(e) Requires the county judge and mayor of the municipality in the county with the greatest population to both serve on the committee or appoint representatives to serve on their behalf, and jointly appoint a member of the committee to serve as the presiding officer.

(f) Requires the committee, not later than September 1, 2014, to recommend:

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

(2) uniform administrative procedures;

(3) uniform deadlines for processing truancy cases;

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

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

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

(g) Provides that compliance with the committee recommendations is voluntary.

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

(i) Provides that this section expires January 1, 2016.

SECTION 7. Amends Section 25.094(e), Education Code, as follows:

(e) Provides that an offense under this section is a misdemeanor punishable by a fine not to exceed:

(1) \$100 for a first offense;

(2) \$200 for a second offense;

(3) \$300 for a third offense;

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

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

SECTION 8. Amends Sections 25.0951(a) and (b), Education Code, as follows:

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

(1) file a complaint against the student or the student's parent or, if the district provides evidence that both the student and the student's parent contributed to the student's failure to attend school, both the student and the parent in a county,

justice, or municipal court for an offense under Section 25.093 (Parent Contributing to Nonattendance) or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) Makes no change to this subdivision.

(b) Authorizes the school district, if a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Subsection (a), to:

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

(2) Makes no change to this subdivision.

SECTION 9. Provides that the changes in law made by this Act apply only to conduct violating Section 25.094, Education Code, on or after the effective date of this Act. Provides that a violation that occurs before the effective date of this Act is covered by the law in effect when the violation occurred, and the former law is continued in effect for that purpose. Provides that for purposes of this section, a violation occurs before the effective date of this Act if any element of the violation occurs before that date.

SECTION 10. Effective date: September 1, 2013.