

By: Villarreal

H.B. No. 2872

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the number of student absences that constitute a
3 failure to attend school.

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

5 SECTION 1. Section 25.094, Education Code, is amended by
6 amending Subsection (a) and adding Subsection (a-1) to read as
7 follows:

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

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

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

13 (3) is absent from ~~[fails to attend]~~ school for the
14 amount of time specified under Subsection (a-1) ~~[on 10 or more days~~
15 ~~or parts of days within a six-month period in the same school year~~
16 ~~or on three or more days or parts of days within a four-week~~
17 ~~period]~~.

18 (a-1) For purposes of Subsection (a), a student may not be
19 absent from school:

20 (1) except as provided by Subdivision (2), on five or
21 more days or parts of days within a semester; or

22 (2) if the student attends a school operating on a
23 year-round system under Section 25.084, on 10 or more days or parts
24 of days within a six-month period in the same school year, or on

1 three or more days or parts of days within a four-week period.

2 SECTION 2. Sections 25.095(a) and (b), Education Code, are
3 amended to read as follows:

4 (a) A school district or open-enrollment charter school
5 shall notify a student's parent in writing at the beginning of the
6 school year that if the student is absent from school on five or
7 more days or parts of days within a semester, or if the student
8 attends a school operating on a year-round system under Section
9 25.084, on 10 or more days or parts of days within a six-month
10 period in the same school year or on three or more days or parts of
11 days within a four-week period:

12 (1) the student's parent is subject to prosecution
13 under Section 25.093; and

14 (2) the student is subject to prosecution under
15 Section 25.094 or to referral to a juvenile court in a county with a
16 population of less than 100,000 for conduct that violates that
17 section.

18 (b) A school district shall notify a student's parent if the
19 student has been absent from school, without excuse under Section
20 25.087, on three days or parts of days within a semester or, if the
21 student attends a school operating on a year-round system under
22 Section 25.084, within a four-week period. The notice must:

23 (1) inform the parent that:

24 (A) it is the parent's duty to monitor the
25 student's school attendance and require the student to attend
26 school; and

27 (B) the parent is subject to prosecution under

1 Section 25.093; and

2 (2) request a conference between school officials and
3 the parent to discuss the absences.

4 SECTION 3. Section 25.0951, Education Code, is amended by
5 amending Subsection (a) and adding Subsection (a-1) to read as
6 follows:

7 (a) Except as provided in Subsection (a-1), if ~~[If]~~ a
8 student is absent from ~~[fails to attend]~~ school without excuse for
9 the amount of time specified under Section 25.094(a-1) ~~[on 10 or~~
10 ~~more days or parts of days within a six-month period in the same~~
11 ~~school year]~~, a school district shall not later than January 15, if
12 the absences occur in the fall semester, or not later than June 15,
13 if the absences occur in the spring semester ~~[within 10 school days~~
14 ~~of the student's 10th absence]:~~

15 (1) file a complaint against the student or the
16 student's parent or both in a county, justice, or municipal court
17 for an offense under Section 25.093 or 25.094, as appropriate, or
18 refer the student to a juvenile court in a county with a population
19 of less than 100,000 for conduct that violates Section 25.094; or

20 (2) refer the student to a juvenile court for conduct
21 indicating a need for supervision under Section 51.03(b)(2), Family
22 Code.

23 (a-1) If a student attending a school that operates on a
24 year-round system under Section 25.084 is absent from school
25 without excuse for the amount of time specified under Section
26 25.094(a-1), a school district shall take the action required under
27 Subsection (a) within 10 school days of the student's 10th absence.

1 SECTION 4. Section 51.03(b), Family Code, as amended by
2 Chapters 1150 (H.B. 2015) and 1322 (S.B. 407), Acts of the 82nd
3 Legislature, Regular Session, 2011, is reenacted and amended to
4 read as follows:

5 (b) Conduct indicating a need for supervision is:

6 (1) subject to Subsection (f), conduct, other than a
7 traffic offense, that violates:

8 (A) the penal laws of this state of the grade of
9 misdemeanor that are punishable by fine only; or

10 (B) the penal ordinances of any political
11 subdivision of this state;

12 (2) the absence of a child from school for the amount
13 of time specified under Section 25.094(a-1), Education Code ~~[on 10~~
14 ~~or more days or parts of days within a six-month period in the same~~
15 ~~school year or on three or more days or parts of days within a~~
16 ~~four-week period from school]~~;

17 (3) the voluntary absence of a child from the child's
18 home without the consent of the child's parent or guardian for a
19 substantial length of time or without intent to return;

20 (4) conduct prohibited by city ordinance or by state
21 law involving the inhalation of the fumes or vapors of paint and
22 other protective coatings or glue and other adhesives and the
23 volatile chemicals itemized in Section 485.001, Health and Safety
24 Code;

25 (5) an act that violates a school district's
26 previously communicated written standards of student conduct for
27 which the child has been expelled under Section 37.007(c),

1 Education Code;

2 (6) conduct that violates a reasonable and lawful
3 order of a court entered under Section 264.305; ~~[or]~~

4 (7) notwithstanding Subsection (a)(1), conduct
5 described by Section 43.02(a)(1) or (2), Penal Code; or

6 (8) ~~[(7)]~~ conduct that violates Section 43.261, Penal
7 Code.

8 SECTION 5. Section 25.0951(b), Education Code, is repealed.

9 SECTION 6. The change in law made by this Act applies only
10 to conduct that violates Section 25.093 or 25.094, Education Code,
11 as amended by this Act, that occurs on or after the effective date
12 of this Act. Conduct that violates Section 25.093 or 25.094,
13 Education Code, as amended by this Act, that occurs before the
14 effective date of this Act is covered by the law in effect at the
15 time the conduct occurred, and the former law is continued in effect
16 for that purpose. For purposes of this section, conduct occurs
17 before the effective date of this Act if any element of the
18 violation occurred before that date.

19 SECTION 7. This Act applies beginning with the 2013-2014
20 school year.

21 SECTION 8. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2013.