

BILL ANALYSIS

C.S.H.B. 1490
By: Huberty
Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that students in Texas who are prosecuted for failure to attend school offenses compose a significant percentage of the total number of the Class C misdemeanor offenses prosecuted against high school students and that some estimates show that Texas reports twice as many failure to attend school offenses as the other states. Various researchers have found that a student's truancy is linked to the student's below-average performance, or even failure, on tests in school. Truancy is a serious problem, and the goal of C.S.H.B. 1490 is to reduce truancy cases in Texas in a way that offers help to a truant student.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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.H.B. 1490 amends the Education Code to require a school district to adopt progressive truancy interventions for students who violate compulsory attendance requirements that are designed to address student conduct related to truancy in the school setting and to minimize the need for certain court proceedings relating to truant conduct. The bill requires the statement from a student's school accompanying the student's referral to juvenile court for such conduct to certify that the school applied the progressive truancy interventions to the student and the progressive truancy interventions failed to meaningfully address the student's school attendance.

C.S.H.B. 1490 requires a system of progressive interventions for truancy adopted by a school district to include at least three tiers of interventions. The bill requires a school district to apply the first tier of interventions to a student who has at least three unexcused absences within a school year and to apply successive tiers of interventions to the student if the student continues to accumulate unexcused absences following the application of the first tier consequences. The bill requires the first tier of progressive truancy interventions to include a conference with the student, the student's parent or guardian, and an employee of the school that the student attends and regularly scheduled follow-up meetings to assess the student's progress. The bill requires the first tier of progressive truancy interventions to include an attendance contract, signed by the conference attendees, that includes a description of the attendance expectations that the school has for the student, the period for which the contract is in effect, not to exceed 45 days following the date the contract is signed, and a description of the consequences that may be imposed on the student if the student accumulates additional absences or commits school offenses, which may include additional disciplinary actions or a referral to juvenile court. The bill requires at least one of the tiers of truancy interventions after the first tier to include an individualized assessment of the student by a school employee that identifies the reasons that the student has accumulated

unexcused absences, refers the student to counseling if necessary, and refers the student to any services, including school-sponsored or community-based services, that focus on addressing the student's absences from school.

C.S.H.B. 1490 authorizes the consequences imposed on a student who has accumulated additional unexcused absences following the application of the first tier of progressive truancy intervention consequences to include the following: school-based community service; participation in a school-based restorative justice program; referral to a school-based teen court; weekend courses designed to improve attendance and behavior; if the student is eligible for or is receiving special education services from a school district or is covered by the federal Rehabilitation Act of 1973, a full reevaluation for special education services under state or federal law, as appropriate, or an assessment of the student's individualized education program to address the causes of the student's unexcused absences, as necessary; or, if the student is not receiving special education services from a school district, an initial evaluation for special education services under state or federal law, as appropriate.

C.S.H.B. 1490 establishes that an attendance officer has the power and duty to enforce compulsory school attendance requirements by applying progressive truancy interventions and, if the progressive truancy interventions fail to meaningfully address the student's conduct, to take certain actions against the student or the student's parent.

C.S.H.B. 1490 repeals the criminal penalty for a student's failure to attend school and instead makes an individual whose conduct constitutes failure to attend school liable to the state for a civil penalty not to exceed \$100. The bill establishes that the imposition of this civil penalty is not a conviction and may not be considered a conviction for any purpose. The bill authorizes a peace officer, as an alternative to taking an individual into custody pursuant to a court order based on an affidavit showing probable cause to believe that the individual's conduct constitutes failure to attend school, to issue a citation to the individual. The bill requires the district or county attorney of the county in which the conduct is alleged to have occurred to bring an action in a county, justice, or municipal court to collect the civil penalty of a person who is taken into custody or is issued a citation for conduct constituting failure to attend school.

C.S.H.B. 1490 removes a requirement that a school district take certain actions against a student or a student's parent within 10 school days of a student's 10th absence if the 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 and instead authorizes a school district under that circumstance to take those actions against a student or the student's parent within 10 school days of the student's most recent absence. The bill removes a condition limiting a school district's authority to refer to juvenile court a student whose conduct constitutes failure to attend school to districts in a county with a population of less than 100,000. The bill instead gives a district the option of referring such a student to juvenile court for a determination as to whether the child engaged in conduct indicating a need for supervision as an alternative to bringing an action against the student in a county, justice, or municipal court.

C.S.H.B. 1490 amends the Code of Criminal Procedure to entitle an individual who has been convicted of a truancy offense, defined as a failure to attend school offense, or who has had a complaint for such an offense dismissed to have the conviction or complaint and records relating to the conviction or complaint automatically expunged. The bill requires the court in which the individual was convicted or in which such a complaint was filed to order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the individual's record. The bill establishes that the individual is released from all disabilities resulting from the conviction or complaint after entry of the order and prohibits the conviction or complaint from being shown or made known for any purpose. The bill requires the court to inform the individual of the expunction.

C.S.H.B. 1490 amends the Family Code and Government Code to make conforming changes.

C.S.H.B. 1490 repeals Article 45.055, Code of Criminal Procedure, and Section 25.094(e), Education Code.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1490 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Article 4.14(g), Code of Criminal Procedure, is amended to read as follows:

(g) A municipality may enter into an agreement with a contiguous municipality or a municipality with boundaries that are within one-half mile of the municipality seeking to enter into the agreement to establish concurrent jurisdiction of the municipal courts in the municipalities and provide original jurisdiction to a municipal court in which a case is brought as if the municipal court were located in the municipality in which the case arose, for:

- (1) all cases in which either municipality has jurisdiction under Subsection (a); and
- (2) cases that arise under Section 821.022, Health and Safety Code~~[, or Section 25.094, Education Code]~~.

SECTION 2. Article 45.0216(g), Code of Criminal Procedure, is amended.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. Same as introduced version.

SECTION 2. Articles 45.054(a) and (i), Code of Criminal Procedure, are amended to read as follows:

(a) On a finding by a county, justice, or municipal court that an individual has engaged in conduct that violates engaged in conduct that violates ~~[committed an offense under]~~ Section 25.094, Education Code, the court has jurisdiction to enter an order that includes one or more of the following provisions requiring that:

- (1) the individual:
 - (A) attend school without unexcused absences;
 - (B) attend a preparatory class for the high school equivalency examination administered under Section 7.111, Education Code, if the court determines that the individual is too old to do well in a

formal classroom environment; or

(C) if the individual is at least 16 years of age, take the high school equivalency examination administered under Section 7.111, Education Code;

(2) the individual attend a special program that the court determines to be in the best interest of the individual, including:

(A) an alcohol and drug abuse program;

(B) a rehabilitation program;

(C) a counseling program, including self-improvement counseling;

(D) a program that provides training in self-esteem and leadership;

(E) a work and job skills training program;

(F) a program that provides training in parenting, including parental responsibility;

(G) a program that provides training in manners;

(H) a program that provides training in violence avoidance;

(I) a program that provides sensitivity training; and

(J) a program that provides training in advocacy and mentoring;

(3) the individual and the individual's parent attend a class for students at risk of dropping out of school designed for both the individual and the individual's parent;

(4) the individual complete reasonable community service requirements; or

(5) for the total number of hours ordered by the court, the individual participate in a tutorial program covering the academic subjects in which the student is enrolled provided by the school the individual attends.

(i) A county, justice, or municipal court shall dismiss the complaint against an individual alleging that the individual has engaged in conduct that violates ~~[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.

No equivalent provision.

SECTION 3. Subchapter B, Chapter 45, Code of Criminal Procedure, is amended by adding Article 45.0541 to read as follows:
Art. 45.0541. AUTOMATIC

EXPUNCTION OF TRUANCY RECORDS. (a) In this article, "truancy offense" means an offense committed under Section 25.094, Education Code.

(b) An individual who has been convicted of a truancy offense or has had a complaint for a truancy offense dismissed is entitled to have the conviction or complaint and records relating to the conviction or complaint automatically expunged.

(c) The court in which the individual was convicted or a complaint for a truancy offense was filed shall order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the individual's record. After entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose. The court shall inform the individual of the expunction.

SECTION 3. Article 45.056(k), Code of Criminal Procedure, is amended to read as follows:

(k) Subsections (i) and (j) do not apply to: ~~[(1) a part-time judge; or (2) a county judge of a county court that has one or more appointed full-time magistrates under Section 54.1172, Government Code].~~

No equivalent provision.

SECTION 4. (a) Section 7.111(a), Education Code, as amended by Chapters 339 (H.B. 2058) and 1217 (S.B. 1536), Acts of the 83rd Legislature, Regular Session,

No equivalent provision.

SECTION 4. Article 102.014(d), Code of Criminal Procedure, is amended to read as follows:

(d) A person convicted of an offense under Section 25.093, Education Code, or found to have engaged in conduct that violates Section 25.094, Education Code, shall pay as taxable court costs \$20 in addition to other taxable court costs. The additional court costs under this subsection shall be collected in the same manner that other fines and taxable court costs in the case are collected.

No equivalent provision.

2013, is reenacted to read as follows:

(a) The board shall provide for the administration of high school equivalency examinations.

(b) Section 7.111(a-1), Education Code, is amended to conform to the amendment of Section 7.111(a), Education Code, by Chapter 1217 (S.B. 1536), Acts of the 83rd Legislature, Regular Session, 2013, and is further amended to read as follows:

(a-1) A person who does not have a high school diploma may take the examination in accordance with rules adopted by the board if the person is:

(1) over 17 years of age;

(2) 16 years of age or older and:

(A) is enrolled in a Job Corps training program under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.), and its subsequent amendments;

(B) a public agency providing supervision of the person or having custody of the person under a court order recommends that the person take the examination; or

(C) is enrolled in the Texas Military Department's [adjutant—general's department's] Seaborne ChalleNGe Corps; or

(3) required to take the examination under a court order issued under Section 54.0492(a)(1)(C), Family Code.

SECTION 5. Sections 25.091(a) and (b), Education Code, are amended to read as follows:

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

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

(2) to enforce compulsory school attendance requirements by:

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

(B) if the truancy prevention measures or progressive truancy interventions fail to meaningfully address the student's conduct, [:

~~(i)] referring the student to a juvenile court [or filing a complaint against the student in a county, justice, or municipal court] if the student has unexcused absences for the~~

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

(B) if the truancy prevention measures or progressive truancy interventions fail to meaningfully address the student's conduct:

(i) referring the student to a juvenile court or filing a complaint against the student in a county, justice, or municipal court if the student has unexcused absences for the

amount of time specified under ~~[Section 25.094 or under]~~ Section 51.03(b)(2), Family Code~~;~~ or

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

(3) to serve court-ordered legal process;

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

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

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

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

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

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

(2) to enforce compulsory school attendance requirements by:

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

(B) if the truancy prevention measures and progressive truancy interventions fail to meaningfully address the student's conduct~~;~~;

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

~~[(ii) filing a complaint in a county, justice,~~

amount of time specified under Section 25.094 or under Section 51.03(b)(2), Family Code; or

(ii) filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

(3) to serve court-ordered legal process;

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

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

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

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

(2) to enforce compulsory school attendance requirements by:

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

(B) if the truancy prevention measures and progressive truancy interventions fail to meaningfully address the student's conduct:

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

(ii) filing a complaint in a county, justice,

~~or municipal court against a parent who violates Section 25.093];~~

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

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

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

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

(7) if the attendance officer has or is informed of a court-ordered legal process directing that a student be taken into custody and the school district employing the officer does not employ its own police department, to contact the sheriff, constable, or any peace officer to request that the student be taken into custody and processed according to the legal process.

SECTION 6. Section 25.0915, Education Code, is amended to read as follows:

Sec. 25.0915. TRUANCY PREVENTION MEASURES AND PROGRESSIVE TRUANCY INTERVENTIONS; REFERRAL ~~[AND FILING]~~ REQUIREMENT.

(a) A school district shall adopt truancy prevention measures and progressive truancy interventions for students who violate compulsory attendance requirements that are designed to:

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

(2) minimize the need for referrals to juvenile court for conduct described by

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or municipal court against a parent who violates Section 25.093;

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

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

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

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

(7) if the attendance officer has or is informed of a court-ordered legal process directing that a student be taken into custody and the school district employing the officer does not employ its own police department, to contact the sheriff, constable, or any peace officer to request that the student be taken into custody and processed according to the legal process.

SECTION 6. The heading to Section 25.0915, Education Code, is amended to read as follows:

Sec. 25.0915. TRUANCY PREVENTION MEASURES AND PROGRESSIVE TRUANCY INTERVENTIONS; REFERRAL ~~AND~~ FILING REQUIREMENT.

SECTION 7. Sections 25.0915(a) and (b), Education Code, are amended to read as follows:

(a) A school district shall adopt truancy prevention measures and progressive truancy interventions for students who violate compulsory attendance requirements that are designed to:

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

(2) minimize the need for referrals to juvenile court for conduct described by

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Section 51.03(b)(2), Family Code[; and
[~~(3) minimize the filing of complaints in county, justice, and municipal courts alleging a violation of Section 25.094.~~]

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

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

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

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

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

(c) A court shall dismiss a [~~complaint or~~] referral made by a school district under this section that is not made in compliance with Subsection (b).

SECTION 7. Subchapter C, Chapter 25, Education Code, is amended by adding Section 25.0917.

No equivalent provision.

Section 51.03(b)(2), Family Code; and
(3) minimize the filing of complaints in county, justice, and municipal courts alleging a violation of Section 25.094.

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

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

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

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

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

SECTION 8. Same as introduced version.

SECTION 9. Section 25.094, Education Code, is amended by amending Subsections (a), (b), (c), (d-1), (f), and (g) and adding Subsections (e-1) and (e-2) to read as follows:

(a) An individual is liable to the state for a civil penalty not to exceed \$100 [~~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) 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.

(b) An action [~~offense~~] under this section may be brought [~~prosecuted~~] in:

(1) the constitutional county court of the county in which the individual resides or in which the school is located, if the county

has a population of 1.75 million or more;
(2) a justice court of any precinct in the county in which the individual resides or in which the school is located; or

(3) a municipal court in the municipality in which the individual resides or in which the school is located.

(c) On a finding by the county, justice, or municipal court [~~that the individual has committed an offense under Subsection (a) or on a finding by a juvenile court in a county with a population of less than 100,000~~] that the individual has engaged in conduct that violates Subsection (a), the court may enter an order that includes one or more of the requirements listed in Article 45.054, Code of Criminal Procedure[~~as added by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001~~].

(d-1) Pursuant to an order of the county, justice, or municipal court based on an affidavit showing probable cause to believe that an individual has violated [~~committed an offense under~~] this section, a peace officer may issue a citation or take the individual into custody. A peace officer taking an individual into custody under this subsection shall:

(1) promptly notify the individual's parent, guardian, or custodian of the officer's action and the reason for that action; and

(2) without unnecessary delay:

(A) release the individual to the individual's parent, guardian, or custodian or to another responsible adult, if the person promises to bring the individual to the county, justice, or municipal court as requested by the court; or

(B) bring the individual to a county, justice, or municipal court with venue over the offense.

(e-1) The imposition of a civil penalty under this section is not a conviction and may not be considered a conviction for any purpose.

(e-2) The district or county attorney of the county in which the conduct described by this section is alleged to have occurred shall bring an action in a county, justice, or municipal court to collect the civil penalty of a person who is taken into custody or is issued a citation for a violation under this section.

(f) It is a [an affirmative] defense [~~to prosecution~~] under this section that one or more of the absences required to be proven under Subsection (a) were excused by a

SECTION 8. Sections 25.095(a) and (b), Education Code, are amended to read as follows:

(a) A school district or open-enrollment charter school shall notify a student's parent in writing at the beginning of the school year that if the student is absent from 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;~~

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

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

(b) A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

(1) inform the parent that:

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

(B) the student is subject to referral to a juvenile court if the student misses 10 or more days or parts of days within a six-month period in the same school year ~~[the parent is subject to prosecution under Section 25.093];~~ and

(2) request a first-tier progressive truancy

school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute an offense under this section. The burden is on the respondent ~~[defendant]~~ to show by a preponderance of the evidence that the absence has been excused or that the absence was involuntary. A decision by the court to excuse an absence for purposes of this section does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

(g) It is a ~~[an affirmative]~~ defense ~~[to prosecution]~~ under this section that one or more of the absences required to be proven under Subsection (a) was involuntary. The burden is on the respondent ~~[defendant]~~ to show by a preponderance of the evidence that the absence was involuntary.

SECTION 10. Sections 25.095(a), (b), and (c), Education Code, are amended to read as follows:

(a) A school district or open-enrollment charter school shall notify a student's parent in writing at the beginning of the school year that if the student is absent from 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;

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

(2) the student is subject to an action brought ~~[prosecution]~~ under Section 25.094 or to referral to a juvenile court [in a county with a population of less than 100,000] for conduct indicating a need for supervision ~~[that violates that section].~~

(b) A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

(1) inform the parent that:

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

(B) the parent is subject to prosecution under Section 25.093; and

(2) request a first-tier progressive truancy

intervention conference under Section 25.0917(c)(1) [between school officials and the parent] to discuss the absences.

intervention conference under Section 25.0917(c)(1) [between school officials and the parent] to discuss the absences.

(c) The fact that a parent did not receive a notice under Subsection (a) or (b) does not create a defense to prosecution under Section 25.093, a defense to an action brought under Section ~~[or]~~ 25.094, or a defense in a disposition hearing on an issue as to whether the child engaged in conduct indicating a need for supervision.

SECTION 9. The heading to Section 25.0951, Education Code, is amended to read as follows:

Sec. 25.0951. SCHOOL DISTRICT ~~[COMPLAINT OR]~~ REFERRAL FOR TRUANCY ~~[FAILURE TO ATTEND SCHOOL]~~.

No equivalent provision.

SECTION 10. Sections 25.0951(a) and (d), Education Code, are amended to read as follows:

(a) 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, a school district may, ~~[shall]~~ within 10 school days of the student's 10th absence, ~~;~~

~~[(1) file a complaint against the student or the student's parent or both 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)]~~ refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

SECTION 11. Sections 25.0951(a) and (b), Education Code, are amended to read as follows:

(a) 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, a school district may ~~[shall]~~ within 10 school days of the student's most recent ~~[10th]~~ absence:

(1) file a complaint against the ~~[student or the]~~ student's parent ~~[or both]~~ in a county, justice, or municipal court for an offense under Section 25.093, bring an action in a county, justice, or municipal court for conduct that violates Section ~~[or]~~ 25.094, [as appropriate,] or refer the student to a juvenile court for a determination as to whether the child engaged in conduct indicating a need for supervision ~~[in a county with a population of less than 100,000 for conduct that violates Section 25.094]; or~~

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

(b) 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), the school district may:

(1) file a complaint against the ~~[student or the]~~ student's parent ~~[or both]~~ in a county, justice, or municipal court for an offense

(d) A court shall dismiss a ~~complaint or~~ referral made by a school district under this section that is not made in compliance with this section.

SECTION 11. Section 29.087(d), Education Code, is amended to read as follows:

(d) A student is eligible to participate in a program authorized by this section if:

(1) the student has been ordered by ~~a court under Article 45.054, Code of Criminal Procedure, as added by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001, or by~~ the Texas Juvenile Justice Department ~~[Youth Commission]~~ to:

(A) participate in a preparatory class for the high school equivalency examination; or

(B) take the high school equivalency examination administered under Section 7.111; or

(2) the following conditions are satisfied:

(A) the student is at least 16 years of age at the beginning of the school year or semester;

(B) the student is a student at risk of dropping out of school, as defined by Section 29.081;

(C) the student and the student's parent or guardian agree in writing to the student's participation;

(D) at least two school years have elapsed since the student first enrolled in ninth grade and the student has accumulated less than one third of the credits required to graduate under the minimum graduation requirements of the district or school; and

(E) any other conditions specified by the ~~department [commissioner]~~.

SECTION 12. Section 51.02(15), Family Code, is amended.

~~under Section 25.093, bring an action in a county, justice, or municipal court for conduct that violates Section [or] 25.094, [as appropriate,] or refer the student to a juvenile court for a determination as to whether the child engaged in conduct indicating a need for supervision [in a county with a population of less than 100,000 for conduct that violates Section 25.094]; or~~

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

No equivalent provision.

SECTION 12. Same as introduced version.

SECTION 13. Section 51.03(b), Family Code, is amended to read as follows:

(b) Conduct indicating a need for supervision is:

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

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

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

(2) 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~~];

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

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

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

(6) conduct that violates a reasonable and lawful order of a court entered under Section 264.305;

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

(8) notwithstanding Subsection (a)(1), conduct that violates Section 43.261, Penal Code.

No equivalent provision.

SECTION 14. Section 51.04(a), Family Code, is amended to read as follows:

(a) This title covers the proceedings in all cases involving the delinquent conduct or conduct indicating a need for supervision engaged in by a person who was a child within the meaning of this title at the time the person engaged in the conduct, and[; ~~except as provided by Subsection (h);~~] the juvenile court has exclusive original jurisdiction over proceedings under this title.

No equivalent provision.

No equivalent provision.

SECTION 13. Sections 54.021(b), (c), (d), and (e), Family Code, are amended to read as follows:

(b) A county, justice, or municipal court may exercise jurisdiction over a person alleged to have engaged in conduct indicating a need for supervision by engaging in conduct described in Section 51.03(b)(2) in a case where:

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

(c) A proceeding in a county, justice, or municipal court on a complaint charging conduct that violates [~~an offense under~~] Section 25.094, Education Code, is governed by Chapter 45, Code of Criminal Procedure.

(d) Notwithstanding any other law, the costs assessed in a case filed in or transferred to a constitutional county court for an offense under Section 25.093, Education Code, or for conduct that violates Section 25.094, Education Code, must be the same as the costs assessed for a case filed in a justice court for an offense under Section 25.093, Education Code, or for conduct that violates Section 25.094, Education Code.

(e) The proceedings before a constitutional county court related to an offense under Section 25.093, Education Code, or conduct that violates Section 25.094, Education Code, may be recorded in any manner provided by Section 30.00010, Government Code, for recording proceedings in a municipal court of record.

No equivalent provision.

SECTION 15. Section 58.106(a), Family Code, is amended to read as follows:

(a) Except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the department and may not be disseminated by the department except:

(1) with the permission of the juvenile offender, to military personnel of this state or the United States;

- (2) to a person or entity to which the department may grant access to adult criminal history records as provided by Section 411.083, Government Code;
- (3) to a juvenile justice agency;
- (4) to the Texas Juvenile Justice Department [~~Youth Commission and the Texas Juvenile Probation Commission~~] for analytical purposes;
- (5) to the office of independent ombudsman of the Texas Juvenile Justice Department [~~Youth Commission~~]; and
- (6) to a county, justice, or municipal court exercising jurisdiction over a juvenile[; ~~including a court exercising jurisdiction over a juvenile under Section 54.021~~].

SECTION 16. Section 61.002(a), Family Code, is amended to read as follows:

No equivalent provision.

(a) Except as provided by Subsection (b), this chapter applies to a proceeding to enter a juvenile court order:

- (1) for payment of probation fees under Section 54.061;
- (2) for restitution under Sections 54.041(b) and 54.048;
- (3) for payment of graffiti eradication fees under Section 54.0461;
- (4) for community service under Section 54.044(b);
- (5) for payment of costs of court under Section 54.0411 or other provisions of law;
- (6) requiring the person to refrain from doing any act injurious to the welfare of the child under Section 54.041(a)(1);
- (7) enjoining contact between the person and the child who is the subject of a proceeding under Section 54.041(a)(2);
- (8) ordering a person living in the same household with the child to participate in counseling under Section 54.041(a)(3);
- (9) [~~requiring a parent or guardian of a child found to be truant to participate in an available program addressing truancy under Section 54.041(f)~~];
- (10) [~~(10)~~] requiring a parent or other eligible person to pay reasonable attorney's fees for representing the child under Section 51.10(e);
- (10) [~~(11)~~] requiring the parent or other eligible person to reimburse the county for payments the county has made to an attorney appointed to represent the child under Section 51.10(j);
- (11) [~~(12)~~] requiring payment of deferred prosecution supervision fees under Section

53.03(d);

(12) [~~(13)~~] requiring a parent or other eligible person to attend a court hearing under Section 51.115;

(13) [~~(14)~~] requiring a parent or other eligible person to act or refrain from acting to aid the child in complying with conditions of release from detention under Section 54.01(r);

(14) [~~(15)~~] requiring a parent or other eligible person to act or refrain from acting under any law imposing an obligation of action or omission on a parent or other eligible person because of the parent's or person's relation to the child who is the subject of a proceeding under this title;

(15) [~~(16)~~] for payment of fees under Section 54.0462; or

(16) [~~(17)~~] for payment of the cost of attending an educational program under Section 54.0404.

SECTION 17. Section 26.045(c), Government Code, is amended to read as follows:

(c) Except as provided by Subsection [~~Subsections (d) and~~] (f), a county court that is in a county with a criminal district court does not have any criminal jurisdiction.

No equivalent provision.

SECTION 18. Section 29.003(i), Government Code, is amended to read as follows:

(i) A municipality may enter into an agreement with a contiguous municipality or a municipality with boundaries that are within one-half mile of the municipality seeking to enter into the agreement to establish concurrent jurisdiction of the municipal courts in the municipalities and provide original jurisdiction to a municipal court in which a case is brought as if the municipal court were located in the municipality in which the case arose, for:

(1) all cases in which either municipality has jurisdiction under Subsection (a); and

(2) cases that arise under Section 821.022, Health and Safety Code [~~, or Section 25.094, Education Code~~].

No equivalent provision.

No equivalent provision.

SECTION 14. Section 54.1955, Government Code, is amended to read as follows:

Sec. 54.1955. POWERS. (a) Except as

limited by an order of the county judge, a magistrate appointed under this subchapter may:

- (1) conduct hearings;
 - (2) hear evidence;
 - (3) issue summons for the appearance of witnesses;
 - (4) examine witnesses;
 - (5) swear witnesses for hearings;
 - (6) recommend rulings or orders or a judgment in a case;
 - (7) regulate proceedings in a hearing;
 - (8) accept a plea of guilty or nolo contendere in a case alleging a violation of Section 25.093 [~~or 25.094~~], Education Code, and assess a fine or court costs or order community service in satisfaction of a fine or costs in accordance with Article 45.049, Code of Criminal Procedure;
 - (9) enter an order suspending a sentence or deferring a final disposition that includes at least one of the requirements listed in Article 45.051, Code of Criminal Procedure;
 - (10) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the referral order, including the entry of an order that includes at least one of the requirements in Article 45.054, Code of Criminal Procedure; and
 - (11) if the magistrate finds that a child as defined by Article 45.058, Code of Criminal Procedure, has violated an order under Article 45.054, Code of Criminal Procedure, proceed as authorized by Article 45.050, Code of Criminal Procedure.
- (b) With respect to an issue of law or fact the ruling on which could result in the dismissal of a prosecution under Section 25.093, Education Code, or an action brought under Section 25.094, Education Code, a magistrate may not rule on the issue but may make findings, conclusions, and recommendations on the issue.

SECTION 19. Section 71.0352, Government Code, is amended to read as follows:

Sec. 71.0352. JUVENILE DATE: JUSTICE, MUNICIPAL, AND JUVENILE COURTS. As a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System:

(1) justice and municipal courts shall report the number of cases filed for a ~~the~~

SECTION 15. Section 71.0352, Government Code, is amended to read as follows:

Sec. 71.0352. JUVENILE DATE: JUSTICE, MUNICIPAL, AND JUVENILE COURTS. As a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System:

(1) justice and municipal courts shall report the number of cases filed for ~~the following~~

following offenses:

~~[(A) failure to attend school under Section 25.094, Education Code;~~

~~[(B) parent contributing to nonattendance under Section 25.093, Education Code; and~~

~~[(C)] violation of a local daytime curfew ordinance adopted under Section 341.905 or 351.903, Local Government Code; and~~

(2) in cases in which a child fails to obey an order of a justice or municipal court under circumstances that would constitute contempt of court, the justice or municipal court shall report the number of incidents in which the child is:

(A) referred to the appropriate juvenile court for delinquent conduct as provided by Article 45.050(c)(1), Code of Criminal Procedure, and Section 51.03(a)(2), Family Code; or

(B) held in contempt, fined, or denied driving privileges as provided by Article 45.050(c)(2), Code of Criminal Procedure.

SECTION 20. Section 103.021, Government Code, is amended.

SECTION 21. The following laws are repealed:

(1) Articles 45.054, 45.055, 45.056(e), and 102.014(d), Code of Criminal Procedure;

(2) Sections 25.085(f), 25.093, 25.094, 25.095(c), 25.0951(b) and (c), and 25.0952, Education Code;

(3) Sections 51.03(g), 51.04(h), 51.08(e), 54.021, and 54.041(f), Family Code;

(4) Section 26.045(d), Government Code;

(5) Subchapter W, Chapter 54, Government Code; and

(6) Subchapter JJ, Chapter 54, Government Code.

SECTION 22. The changes in law made by this Act apply only to an offense committed or conduct that occurs on or after the effective date of this Act. An offense committed or conduct that occurs before the effective date of this Act is governed by the law in effect on the date the offense was committed or the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed or conduct occurs

[offenses]:

(A) failure to attend school under Section 25.094, Education Code;

(B) parent contributing to nonattendance under Section 25.093, Education Code; and

(C) violation of a local daytime curfew ordinance adopted under Section 341.905 or 351.903, Local Government Code; and

(2) in cases in which a child fails to obey an order of a justice or municipal court under circumstances that would constitute contempt of court, the justice or municipal court shall report the number of incidents in which the child is:

(A) referred to the appropriate juvenile court for delinquent conduct as provided by Article 45.050(c)(1), Code of Criminal Procedure, and Section 51.03(a)(2), Family Code; or

(B) held in contempt, fined, or denied driving privileges as provided by Article 45.050(c)(2), Code of Criminal Procedure.

SECTION 16. Same as introduced version.

SECTION 17. The following provisions are repealed:

(1) Article 45.055, Code of Criminal Procedure; and

(2) Section 25.094(e), Education Code.

SECTION 18. The changes in law made by this Act apply to a person taken into custody or issued a citation on or after the effective date of this Act, regardless of whether the conduct for which the person was taken into custody or issued a citation occurred before, on, or after that date.

before the effective date of this Act if any element of the offense or conduct occurs before the effective date.

SECTION 23. To the extent of any conflict, this Act prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 24. This Act takes effect September 1, 2015.

No equivalent provision.

SECTION 19. Same as introduced version.