

BILL ANALYSIS

Senate Research Center
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H.B. 2398
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is a widely held belief that a student should not be prevented from attending school because of a financial constraint that prevents the student from making essential purchases, such as a pair of shoes or a backpack. H.B. 2398 seeks find a way to provide assistance to schoolchildren in need and other issues relating to truancy.

This bill amends the Government Code to permit the governing body of a municipality or the county commissioners court of a county to establish a judicial trust fund to assist children and families who appear in court for truancy violations. Interest and income for the assets of the trust fund would be credited and deposited into the trust fund. Under the bill, the governing body of a municipality or the commissioners court would establish procedures to receive and disperse funds and establish the eligibility requirements to disperse money. This bill would permit a judge to award money from the judicial trust fund to eligible children or families who appear before the court for a truancy or curfew violation or in another misdemeanor proceeding. This bill would permit a county, justice, or municipal court to dismiss a charge against a defendant alleging the defendant committed certain offenses relating to truancy if the court finds the dismissal would be in the interest of justice.

This bill would require a court to order the expunction from an individual's record, including any documents in the possession of a school district or law enforcement agency. The bill would require the court to inform the individual of the expunction.

H.B. 2398 amends current law relating to the establishment of judicial donation trust funds to assist needy children and families appearing before justice and municipal courts, dismissal of charges related to school attendance, and expunction of truancy records.

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 Subtitle B, Title 2, Government Code, by adding Chapter 36, as follows:

CHAPTER 36. JUDICIAL DONATION TRUST FUNDS

Sec. 36.001. ESTABLISHMENT OF TRUST FUNDS. (a) Authorizes the governing body of a municipality or the commissioners court of a county to establish a judicial donation trust fund as a separate account held outside the municipal or county treasury to be used in accordance with this chapter.

(b) Authorizes the governing body of a municipality or the commissioners court of a county to accept a gift, grant, donation, or other consideration from a public or private source that is designated for the judicial donation trust fund.

(c) Requires that money received under Subsection (b) be deposited in the judicial donation trust fund and authorizes that money to only be disbursed in accordance with this chapter.

(d) Requires that interest and income from the assets of the judicial donation trust fund be credited to and deposited in the trust fund.

Sec. 36.002. PROCEDURES AND ELIGIBILITY. Requires the governing body of a municipality or the commissioners court of a county to:

(1) adopt the procedures necessary to receive and disburse money from the judicial donation trust fund under this chapter; and

(2) establish eligibility requirements for disbursement of money under this chapter to assist needy children or families who appear before a justice or municipal court for a criminal offense, as applicable, by providing money for resources and services that eliminate barriers to school attendance or that seek to prevent criminal behavior.

Sec. 36.003. USE OF FUNDS IN ACCOUNT. (a) Authorizes the judge of a justice or municipal court, in accordance with Section 36.002, to award money from a judicial donation trust fund established under Section 36.001 to eligible children or families who appear before the court for a truancy or curfew violation or in another misdemeanor offense proceeding before the court.

(b) Authorizes a judge of a justice or municipal court to order the municipal or county treasurer to issue payment from the judicial donation trust fund for money awarded under this section.

SECTION 2. Amends Subchapter B, Chapter 45, Code of Criminal Procedure, by adding Article 45.0531, as follows:

Art. 45.0531. DISMISSAL OF PARENT CONTRIBUTING TO NONATTENDANCE OR FAILURE TO ATTEND SCHOOL CHARGE. Authorizes a county, justice, or municipal court, at the court's discretion, notwithstanding any other law, to dismiss a charge against a defendant alleging the defendant committed an offense under Section 25.093 (Parent Contributing to Nonattendance) or 25.094 (Failure to Attend School), Education Code, if the court finds that a dismissal would be in the interest of justice because:

(1) there is a low likelihood of recidivism by the defendant; or

(2) sufficient justification exists for the failure to attend school.

SECTION 3. Amends Subchapter B, Chapter 45, Code of Criminal Procedure, by adding Article 45.0541, as follows:

Art. 45.0541. AUTOMATIC EXPUNCTION OF TRUANCY RECORDS. (a) Defines "truancy offense" in this article.

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

(c) Requires the court in which the individual was convicted or a complaint for a truancy offense 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. Provides that, after entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the

conviction or complaint is prohibited from being shown or made known for any purpose. Requires the court to inform the individual of the expunction.

SECTION 4. Amends Section 54.03, Family Code, by adding Subsection (g-1), as follows:

(g-1) Authorizes the court, at the court's discretion, if the child is alleged to have engaged in conduct indicating a need for supervision under Section 51.03(b)(2) (related to the need for supervision if a child is absent for more than a certain amount of days), to dismiss the case with prejudice if the court finds that a dismissal would be in the interest of justice because:

- (1) there is a low likelihood of recidivism by the defendant; or
- (2) sufficient justification exists for the failure to attend school.

SECTION 5. Amends Section 81.032, Local Government Code, as follows:

Sec. 81.032. ACCEPTANCE OF DONATIONS AND BEQUESTS. Authorizes the commissioners court to accept a gift, grant, donation, bequest, or devise of money or other property on behalf of the county, including a donation under Chapter 36, Government Code, for the purpose of performing a function conferred by law on the county or a county officer.

SECTION 6. (a) Provides that Article 45.0531, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. Provides that an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

(b) Provides that Section 54.03(g-1), Family Code, as added by this Act, applies only to conduct that occurs on or after the effective date of this Act. Provides that conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. Provides that, for the purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurred before that date.

SECTION 7. Provides that Article 45.0541, Code of Criminal Procedure, as added by this Act, applies to the expunction or destruction of a truancy record or file existing on or after the effective date of this Act regardless of when the offense or conduct that is the subject of the record or file was committed.

SECTION 8. Effective date: September 1, 2015.