

By: White of Tyler

H.B. No. 93

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the repeal of the offenses of failure to attend school
3 and parent contributing to nonattendance.

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

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

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

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

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

18 SECTION 2. Article 45.0216(g), Code of Criminal Procedure,
19 is amended to read as follows:

20 (g) This article does not apply to any offense otherwise
21 covered by:

22 (1) Chapter 106, Alcoholic Beverage Code; or

23 (2) Chapter 161, Health and Safety Code [~~, or~~

24 [~~(3) Section 25.094, Education Code~~].

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

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

8 SECTION 4. Section 25.085(f), Education Code, is amended to
9 read as follows:

10 (f) The board of trustees of a school district may adopt a
11 policy requiring a person described by Subsection (e) who is under
12 21 years of age to attend school until the end of the school
13 year. Section [~~25.094 applies to a person subject to a policy~~
14 ~~adopted under this subsection. Sections 25.093 and~~ 25.095 does
15 ~~de~~] not apply to the parent of a person subject to a policy adopted
16 under this subsection.

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

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

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

25 (2) to enforce compulsory school attendance
26 requirements by:

27 (A) applying truancy prevention measures adopted

1 under Section 25.0915 to the student; and

2 (B) if the truancy prevention measures fail to
3 meaningfully address the student's conduct, ~~+~~

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

9 ~~[(ii) filing a complaint in a county,~~
10 ~~justice, or municipal court against a parent who violates Section~~
11 ~~25.093,]~~

12 (3) to serve court-ordered legal process;

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

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

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

27 (7) to take a student into custody with the permission

1 of the student's parent or in obedience to a court-ordered legal
2 process.

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

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

10 (2) to enforce compulsory school attendance
11 requirements by:

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

14 (B) if the truancy prevention measures fail to
15 meaningfully address the student's conduct, ~~and~~ +

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

21 ~~[(ii) filing a complaint in a county,~~
22 ~~justice, or municipal court against a parent who violates Section~~
23 ~~25.093,]~~

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

26 (4) to maintain an investigative record on each
27 compulsory school attendance requirement violation and related

1 court action and, at the request of a court, the board of trustees
2 of a school district, or the commissioner, to provide a record to
3 the individual or entity requesting the record;

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

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

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

18 SECTION 6. 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; and

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

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

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

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

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

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

18 SECTION 7. Sections 25.095(a) and (b), Education Code, are
19 amended to read as follows:

20 (a) A school district or open-enrollment charter school
21 shall notify a student's parent in writing at the beginning of the
22 school year that if the student is absent from school on 10 or more
23 days or parts of days within a six-month period in the same school
24 year or on three or more days or parts of days within a four-week
25 period[+]

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

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

5 (b) A school district shall notify a student's parent if the
6 student has been absent from school, without excuse under Section
7 25.087, on three days or parts of days within a four-week period.
8 The notice must:

- 9 (1) inform the parent that[+
10 ~~[(A)]~~ it is the parent's duty to monitor the
11 student's school attendance and require the student to attend
12 school; and
13 ~~[(B) the parent is subject to prosecution under~~
14 ~~Section 25.093; and]~~

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

17 SECTION 8. Section 25.0951, Education Code, is amended to
18 read as follows:

19 Sec. 25.0951. SCHOOL DISTRICT [~~COMPLAINT OR~~] REFERRAL FOR
20 FAILURE TO ATTEND SCHOOL. (a) If a student fails to attend school
21 without excuse on 10 or more days or parts of days within a
22 six-month period in the same school year, a school district shall
23 within 10 school days of the student's 10th absence[+
24

25 ~~[(1) file a complaint against the student or the~~
26 ~~student's parent or both in a county, justice, or municipal court~~
27 ~~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~~

1 ~~of less than 100,000 for conduct that violates Section 25.094, or~~

2 ~~[(2)]~~ refer the student to a juvenile court for
3 conduct indicating a need for supervision under Section
4 51.03(b)(2), Family Code.

5 (b) If a student fails to attend school without excuse on
6 three or more days or parts of days within a four-week period but
7 does not fail to attend school for the time described by Subsection
8 (a), the school district may~~+~~

9 ~~[(1) file a complaint against the student or the~~
10 ~~student's parent or both in a county, justice, or municipal court~~
11 ~~for an offense under Section 25.093 or 25.094, as appropriate, or~~
12 ~~refer the student to a juvenile court in a county with a population~~
13 ~~of less than 100,000 for conduct that violates Section 25.094, or~~

14 ~~[(2)]~~ refer the student to a juvenile court for
15 conduct indicating a need for supervision under Section
16 51.03(b)(2), Family Code.

17 (c) ~~[In this section, "parent" includes a person standing in~~
18 ~~parental relation.]~~

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

22 SECTION 9. Section 29.087(d), Education Code, is amended to
23 read as follows:

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

26 (1) the student has been ordered by ~~[a court under~~
27 ~~Article 45.054, Code of Criminal Procedure, as added by Chapter~~

1 ~~1514, Acts of the 77th Legislature, Regular Session, 2001, or by]~~
2 the Texas Juvenile Justice Department [~~Youth Commission~~] to:

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

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

7 (2) the following conditions are satisfied:

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

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

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

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

19 (E) any other conditions specified by the
20 commissioner.

21 SECTION 10. Section 51.02(15), Family Code, is amended to
22 read as follows:

23 (15) "Status offender" means a child who is accused,
24 adjudicated, or convicted for conduct that would not, under state
25 law, be a crime if committed by an adult, including:

26 (A) truancy under Section 51.03(b)(2);

27 (B) running away from home under Section

1 51.03(b)(3);

2 (C) a fineable only offense under Section
3 51.03(b)(1) transferred to the juvenile court under Section
4 51.08(b), but only if the conduct constituting the offense would
5 not have been criminal if engaged in by an adult;

6 (D) [~~failure to attend school under Section~~
7 ~~25.094, Education Code,~~

8 ~~(E)~~] a violation of standards of student conduct
9 as described by Section 51.03(b)(5);

10 (E) [~~(F)~~] a violation of a juvenile curfew
11 ordinance or order;

12 (F) [~~(G)~~] a violation of a provision of the
13 Alcoholic Beverage Code applicable to minors only; or

14 (G) [~~(H)~~] a violation of any other fineable only
15 offense under Section 8.07(a)(4) or (5), Penal Code, but only if the
16 conduct constituting the offense would not have been criminal if
17 engaged in by an adult.

18 SECTION 11. Section 51.04(a), Family Code, is amended to
19 read as follows:

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

26 SECTION 12. Section 54.041(f), Family Code, is amended to
27 read as follows:

1 (f) If a child is found to have engaged in conduct
2 indicating a need for supervision described under Section
3 51.03(b)(2) [~~or (g)~~], the court may order the child's parents or
4 guardians to attend a program for parents of students with
5 unexcused absences that provides instruction designed to assist
6 those parents in identifying problems that contribute to the
7 students' unexcused absences and in developing strategies for
8 resolving those problems [~~described by Section 25.093(f),~~
9 ~~Education Code~~], if a program is available.

10 SECTION 13. Section 58.106(a), Family Code, is amended to
11 read as follows:

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

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

18 (2) to a person or entity to which the department may
19 grant access to adult criminal history records as provided by
20 Section 411.083, Government Code;

21 (3) to a juvenile justice agency;

22 (4) to the Texas Juvenile Justice Department [~~Youth~~
23 ~~Commission and the Texas Juvenile Probation Commission~~] for
24 analytical purposes;

25 (5) to the office of independent ombudsman of the
26 Texas Juvenile Justice Department [~~Youth Commission~~]; and

27 (6) to a county, justice, or municipal court

1 exercising jurisdiction over a juvenile[~~, including a court~~
2 ~~exercising jurisdiction over a juvenile under Section 54.021~~].

3 SECTION 14. Sections 26.045(c) and (e), Government Code,
4 are amended to read as follows:

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

8 (e) Subsection [~~Subsections~~] (c) does [~~and (d) do~~] not
9 affect the jurisdiction of a statutory county court.

10 SECTION 15. Section 29.003(i), Government Code, is amended
11 to read as follows:

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

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

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

23 SECTION 16. Section 71.0352, Government Code, is amended to
24 read as follows:

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

1 Judicial System:

2 (1) justice and municipal courts shall report the
3 number of cases filed for ~~[the following offenses:~~

4 ~~[(A) failure to attend school under Section~~
5 ~~25.094, Education Code;~~

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

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

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

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

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

21 SECTION 17. The following provisions are repealed:

22 (1) Articles 45.054 and 45.055, Code of Criminal
23 Procedure;

24 (2) Article 45.056(e), Code of Criminal Procedure;

25 (3) Article 102.014(d), Code of Criminal Procedure;

26 (4) Sections 25.0916, 25.093, and 25.094, Education
27 Code;

- 1 (5) Section 25.095(c), Education Code;
- 2 (6) Section 25.0952, Education Code;
- 3 (7) Section 51.03(g), Family Code;
- 4 (8) Section 51.04(h), Family Code;
- 5 (9) Section 51.08(e), Family Code;
- 6 (10) Section 54.021, Family Code;
- 7 (11) Section 26.045(d), Government Code;
- 8 (12) Subchapter W, Chapter 54, Government Code;
- 9 (13) Subchapter JJ, Chapter 54, Government Code; and
- 10 (14) Section 103.021(20-b), Government Code.

11 SECTION 18. The changes in law made by this Act do not apply
12 to an offense committed under Section 25.093 or 25.094, Education
13 Code, before the effective date of this Act or to a criminal action
14 pending on the effective date of this Act for an offense under
15 either section. An offense committed before the effective date of
16 this Act or a criminal action pending on that date is governed by
17 the law in effect at the time the offense was committed, and the
18 former law is continued in effect for that purpose. For the
19 purposes of this section, an offense is committed before the
20 effective date of this Act if any element of the offense was
21 committed before that date.

22 SECTION 19. This Act takes effect September 1, 2015.