

By: Whitmire

S.B. No. 106

A BILL TO BE ENTITLED

AN ACT

relating to the prevention of truancy and the offense of failure to attend school; providing a penalty.

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

SECTION 1. Article 45.054(i), Code of Criminal Procedure, is amended to read as follows:

(i) A county, justice, or municipal court shall dismiss the complaint against an individual alleging that the individual 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 after taking a high school equivalency examination administered under Section 7.111, Education Code.

SECTION 2. Article 45.055(e), Code of Criminal Procedure, is amended to read as follows:

(e) A court shall 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, if:

(1) the court finds that the individual has successfully complied with the conditions imposed on the individual

1 by the court under Article 45.054; or

2 (2) before the individual's 21st birthday, the
3 individual presents to the court proof that the individual has
4 obtained a high school diploma or a high school equivalency
5 certificate after taking a high school equivalency examination
6 administered under Section 7.111, Education Code.

7 SECTION 3. Section 25.085, Education Code, is amended by
8 amending Subsection (e) and adding Subsections (g) and (h) to read
9 as follows:

10 (e) A person who voluntarily enrolls in school or
11 voluntarily attends school after the person's 18th birthday shall
12 attend school each school day for the entire period the program of
13 instruction is offered. A school district may revoke for the
14 remainder of the school year the enrollment of a person who has more
15 than five absences in a semester that are not excused under Section
16 25.087, except that a school district may not revoke the enrollment
17 of a person under this subsection on a day on which the person is
18 physically present at school. A person whose enrollment is revoked
19 under this subsection may be considered an unauthorized person on
20 school district grounds for purposes of Section 37.107.

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

26 (h) As an alternative to revoking a person's enrollment
27 under Subsection (e), a school district may impose a behavior

1 improvement plan described by Section 25.0915(a-1)(1).

2 SECTION 4. Section 25.0915, Education Code, is amended by
3 amending Subsection (a) and adding Subsections (a-1), (a-2), (d),
4 and (e) to read as follows:

5 (a) A school district shall adopt truancy prevention
6 measures designed to:

7 (1) address student conduct related to truancy in the
8 school setting before the student violates Section 25.094;

9 (2) minimize the need for referrals to juvenile court
10 for conduct described by Section 51.03(b)(2), Family Code; and

11 (3) minimize the filing of complaints in county,
12 justice, and municipal courts alleging a violation of Section
13 25.094.

14 (a-1) As a truancy prevention measure under Subsection (a),
15 a school district may take one or more of the following actions:

16 (1) impose:

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

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

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

26 (iii) the penalties for additional
27 absences, including additional disciplinary action or the referral

1 of the student to a juvenile court; or

2 (B) school-based community service; or

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

6 (a-2) A referral made under Subsection (a-1)(2) may include
7 participation by the child's parent or guardian if necessary.

8 (d) Except as provided by Subsection (e), a school district
9 shall employ a truancy prevention facilitator to implement the
10 truancy prevention measures required by this section and any other
11 effective truancy prevention measures as determined by the school
12 district or campus. At least annually, the truancy prevention
13 facilitator shall meet to discuss effective truancy prevention
14 measures with a case manager or other individual designated by a
15 juvenile or criminal court to provide services to students of the
16 school district in truancy cases.

17 (e) Instead of employing a truancy prevention facilitator,
18 a school district may designate an existing district employee to
19 implement the truancy prevention measures required by this section
20 and any other effective truancy prevention measures as determined
21 by the school district or campus.

22 SECTION 5. Section 25.094(e), Education Code, is amended to
23 read as follows:

24 (e) An offense under this section is a [~~Class C~~] misdemeanor
25 punishable by a fine not to exceed:

26 (1) \$100 for a first offense;

27 (2) \$200 for a second offense;

- 1 (3) \$300 for a third offense;
- 2 (4) \$400 for a fourth offense; or
- 3 (5) \$500 for a fifth or subsequent offense.

4 SECTION 6. Sections 25.0951(a) and (b), Education Code, are
5 amended to read as follows:

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

10 (1) file a complaint against the student or the
11 student's parent or, if the district provides evidence that both
12 the student and the student's parent contributed to the student's
13 failure to attend school, both the student and the parent in a
14 county, justice, or municipal court for an offense under Section
15 25.093 or 25.094, as appropriate, or refer the student to a juvenile
16 court in a county with a population of less than 100,000 for conduct
17 that violates Section 25.094; or

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

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

25 (1) file a complaint against the student or the
26 student's parent or, if the district provides evidence that both
27 the student and the student's parent contributed to the student's

1 failure to attend school, both the student and the parent in a
2 county, justice, or municipal court for an offense under Section
3 25.093 or 25.094, as appropriate, or refer the student to a juvenile
4 court in a county with a population of less than 100,000 for conduct
5 that violates Section 25.094; or

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

9 SECTION 7. The changes in law made by this Act apply only to
10 conduct violating Section 25.094, Education Code, on or after the
11 effective date of this Act. A violation that occurs before the
12 effective date of this Act is covered by the law in effect on the
13 date the violation occurred, and the former law is continued in
14 effect for that purpose. For purposes of this section, a violation
15 occurs before the effective date of this Act if any element of the
16 violation occurs before that date.

17 SECTION 8. This Act takes effect September 1, 2015.