

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 10, 2015

TO: Honorable Harold V. Dutton, Jr., Chair, House Committee on Juvenile Justice & Family Issues

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB378 by White, James (Relating to the establishment of progressive sanctions for students who fail to attend school and to the repeal of the offenses of failure to attend school and parent contributing to nonattendance.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB378, As Introduced: a negative impact of (\$11,272,584) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$4,796,982)
2017	(\$6,475,602)
2018	(\$6,475,602)
2019	(\$6,475,602)
2020	(\$6,475,602)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Dedicated Accounts	Probable Revenue Gain/(Loss) from Judicial Fund 573
2016	(\$4,538,491)	(\$258,491)	(\$1,616,319)	(\$258,339)
2017	(\$6,217,111)	(\$258,491)	(\$1,616,319)	(\$258,339)
2018	(\$6,217,111)	(\$258,491)	(\$1,616,319)	(\$258,339)
2019	(\$6,217,111)	(\$258,491)	(\$1,616,319)	(\$258,339)
2020	(\$6,217,111)	(\$258,491)	(\$1,616,319)	(\$258,339)

Fiscal Year	Probable Revenue Gain/(Loss) from Other Fund 977 Law Enforcement and Custodial Officer Supplement Retirement Trust Fund
2016	(\$191,905)
2017	(\$191,905)
2018	(\$191,905)
2019	(\$191,905)
2020	(\$191,905)

Fiscal Analysis

The bill would repeal the offense of failure to attend school in Section 25.094 and parent contributing to nonattendance in Section 25.093 of the Education Code. School districts would still be required to refer children to court for conduct indicating a need for supervision (CINS) described under Section 51.03(b)(2) for 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, which is considered truancy.

The bill would require a school district or open-enrollment charter school employee to impose progressive sanctions on a student before referring a student to juvenile court for CINS for truancy. Under the progressive sanctions, the employee may issue a warning letter to student and parent, impose a behavior contract on student with specific consequences for additional absences, impose school based community service, or refer the student to counseling or services in or out of school. If student fails to comply or complete progressive sanctions, then he or she is referred to juvenile court.

Methodology

Repealing the offenses in the Education Code, which are Class C misdemeanors and heard primarily in justice, municipal, and constitutional county courts, would result in a loss of court cost revenue to the state from these cases. Including cases from Dallas and Fort Bend Truancy courts, and justice and municipal courts, there were 93,786 complaints of failure to attend school and 78,440 complaints of parent contributing to nonattendance in fiscal year 2014, for a total of 172,226 cases. The Office of Court Administration estimated that 50 percent of both of these types of cases result in a conviction or deferred disposition, both of which result in the assessment of court costs. Applying the 50 percent conviction rate would yield 86,113 cases in which court costs are assessed ($172,226 \times 0.5 = 86,113$). The state portion of court costs assessed on these cases is \$54 per case. The number of cases with court costs assessed, multiplied by the court cost per case would yield \$4,650,102 ($86,113 \times \$54 = \$4,650,102$). Assuming a collection rate to the assessed court costs of 50% would equal \$2,325,051 in lost court cost revenue per year ($\$4,650,102 \times 0.5 = \$2,325,051$). This would be partially offset by reductions in court caseloads.

Requiring these cases to go through juvenile courts as CINS would increase the number of referrals to juvenile courts and local juvenile probation departments. Some portion of those juveniles referred would be placed on deferred prosecution or probation supervision. Of current referrals to juvenile court for CINS for truancy or failure to attend school, 37 percent are currently placed on deferred prosecution or probation supervision for an average length of stay of 155 days. Because some of these cases currently only go to juvenile court for the third or subsequent offense, it is assumed that a smaller percentage of the total number of cases would end up on

deferred prosecution or probation supervision if they were all referred to juvenile court only. Assuming the progressive sanctions described in the bill decreased the number of referrals to juvenile court by 33 percent, there would be 61,899 cases referred to juvenile court. Assuming that 12 percent of those were placed on deferred prosecution or probation for 155 days each, there would be an additional 1,151,317 days of supervision per year. Using the \$5.40 cost per day to the state for basic supervision for juveniles, as included in the General Appropriations Act, this would result in an additional cost of \$6,217,111 per year. This bill goes into effect September 1, 2015, and this estimate assumes it would take about a month for juveniles to begin supervision, and not all of those placed on supervision would complete the entire length of stay within the fiscal year; therefore, the first year costs would be approximately \$4,538,491.

Some of the juveniles referred to juvenile probation would also be served in a program. The state does provide some funding that is used for juvenile probation programs. However, it is unknown how many of these juveniles would be served by programs and which programs they would attend. The cost and length of those programs is also therefore unknown. Accordingly, there could be an additional cost to the state for juvenile probation programs that is not included in this fiscal impact estimate.

Local Government Impact

County and municipal governments will see reduced revenue from the local portion of courts costs collected for the repealed Class C misdemeanor offenses, as well as a reduction in fines collected. Assuming 86,113 cases in which court costs are assessed and a collection rate of 50 percent, there would be a decrease of \$1,416,807 in revenue to local governments per year. Additionally, there may be an indeterminate loss in fine revenue to local governments. The bill would also repeal the expunction statute, along with its \$30 fee is collected and retained by local governments; however, the Office of Court Administration anticipates that the fiscal impact would not be significant.

According to the Texas Association of Counties, Dawson County, Denton County, Gaines County, and Midland County reported the fiscal impact would not be significant. The city of San Antonio reported that there would not be a significant fiscal impact to the municipal court. The City of Fort Worth reported that they would close the Fort Worth School Attendance Court consisting of 7 staff members and its associated expenditures for a total savings of \$544,661. Additionally, the municipal court would lose \$380,223 in revenue currently collected.

Counties may see increased costs due to increases in CINS truancy cases being handled by local juvenile probation departments. However, the increase may be moderated by a decrease in prosecutions for truancy due to the required progressive sanctions. This analysis assumes that the progressive sanctions would reduce the number of referrals to juvenile court by 33 percent to 61,899 cases. Assuming that 12 percent of cases referred were given deferred prosecution or probation for an average of 155 days at \$7.85 per day, there would be a total cost of \$9,037,838 per year to local juvenile probation departments for basic supervision. There could also be an additional cost to locals for juvenile probation programs that is not included in this fiscal impact estimate.

According to OCA, counties will have to pay for legal representation by an attorney in juvenile court in the limited cases in which a prosecutor files a petition against an indigent child for the CINS conduct of truancy; however, this is not anticipated to be significant.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304

Comptroller of Public Accounts, 644 Juvenile Justice Department, 701
Central Education Agency

LBB Staff: UP, JQ, GDz, KVe, JPo, JBi, ESi, JJ, SD