

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: HB1490 by Huberty (Relating to public school interventions and procedures for truancy.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1490, As Introduced: a negative impact of (\$8,665,166) 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	(\$3,696,742)
2017	(\$4,968,424)
2018	(\$4,968,424)
2019	(\$4,968,424)
2020	(\$4,968,424)

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	(\$3,438,251)	(\$258,491)	(\$1,616,319)	(\$258,339)
2017	(\$4,709,933)	(\$258,491)	(\$1,616,319)	(\$258,339)
2018	(\$4,709,933)	(\$258,491)	(\$1,616,319)	(\$258,339)
2019	(\$4,709,933)	(\$258,491)	(\$1,616,319)	(\$258,339)
2020	(\$4,709,933)	(\$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 allowed, but no longer 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. However, the bill would no longer allow a school district to refer a child to juvenile court for fewer than 10 unexcused absences in six months.

The bill requires a school district to adopt specific progressive truancy interventions and apply them before referring a child to juvenile court. A progressive truancy intervention system must include at least three tiers of interventions which are specified in the bill. The first tier should be applied to a student who has at least three unexcused absences within a school year.

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 percent 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. It is assumed that the required progressive truancy interventions would reduce the number of referrals to juvenile court by 50 percent. Independently, eliminating the ability to refer a child to juvenile

court after only three unexcused absences could also reduce the referrals to juvenile court. However, this analysis assumes that those who would be referred for fewer than 10 absences would already be included in the reductions attributed to the progressive truancy interventions. Therefore, assuming 50 percent or 46,893 of former failure to attend school cases were referred to juvenile court, and that 12 percent of those ended up on deferred prosecution or probation for 155 days each, there would be an additional 872,210 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 \$4,709,933 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 \$3,438,251.

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%, 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.

Midland County Justice of the Peace reports there would be a loss of revenue from court cost, including costs to fund juvenile case managers.

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 50 percent to 46,893 cases. Assuming that 12% 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 \$6,846,847 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, ESi, JJ, JQ, SD, KVe, JBi, JPo