

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 6, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB106 by Whitmire (relating to court jurisdiction and procedures relating to truancy; providing criminal penalties; imposing a court cost.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for SB106, Committee Report 1st House, Substituted: a positive impact of \$236,809 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	\$77,369
2017	\$159,440
2018	\$158,047
2019	\$158,047
2020	\$158,047

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	Probable Revenue Gain/(Loss) from Judicial Fund 573
2016	\$218,131	(\$140,762)	(\$880,169)	(\$140,679)
2017	\$300,202	(\$140,762)	(\$880,169)	(\$140,679)
2018	\$298,809	(\$140,762)	(\$880,169)	(\$140,679)
2019	\$298,809	(\$140,762)	(\$880,169)	(\$140,679)
2020	\$298,809	(\$140,762)	(\$880,169)	(\$140,679)

Probable Revenue Gain/(Loss) from Appropriated Fund
Fiscal Year 0977 Law Enforcement

	<i>and Custodial Officer Supplement Retirement Trust Fund</i>
2016	(\$104,502)
2017	(\$104,502)
2018	(\$104,502)
2019	(\$104,502)
2020	(\$104,502)

Fiscal Analysis

The bill would repeal the offense of failure to attend school in Section 25.094 of the Education Code and removes truancy from the definition of conduct indicating need for supervision currently under the Family Code Section 51.03(b)(2). It would create a new civil offense called "truant conduct", which would apply to a child age 12 or older and younger than 18. The current offense of parent contributing to nonattendance would have fines capped at \$100 for a first offense, and increase by \$100 for each subsequent offense up to a maximum of \$500.

The Texas Education Agency would be required to create minimum standards and establish best practices for truancy prevention measures, and adopt rules for sanctioning school districts found to be noncompliant with those minimum standards.

The bill requires school districts to employ a truancy prevention facilitator or designate an existing employee as such. The bill would require school districts to take one or more of specified actions as truancy prevention measures, and would prohibit a school district from referring a student to truancy court if the school determines that the student's truancy is due to pregnancy, being in foster care, homelessness, or being the principal earner for the student's family.

The bill would create a new type of truancy court. Truant conduct would only be prosecuted as a civil case and only in a truancy court. Justice, municipal, and certain constitutional county courts would be designated as truancy courts.

The bill also establishes procedures for the new truancy courts. The bill requires a truant conduct prosecutor to review referrals and decide whether or not to petition the truancy court for adjudication of the case, and requires a truancy court to dismiss any referrals that do not comply with requirements. If a truancy court determines that probable cause exists to believe that a child alleged to have engaged in truant conduct has a mental illness, the court would be required to dismiss the petition. If the child, parent, or a witness in a case does not speak English, or is deaf, an interpreter must interpret for the person.

The bill requires a person to be served personally with a summons, unless the person cannot be found, in which case the summons can be mailed by registered or certified mail. The bill requires each parent of a child to be present at a truancy court hearing, unless specifically excused. The bill also would prohibit employers from terminating a permanent employee because of the required attendance at a truancy court hearing. If a child appears before the truancy court without a parent or guardian, or the parents or guardians are incapable or unwilling to make decisions in the best interests of the child, the court may appoint a guardian ad litem to protect the interests of the child in the proceedings. If the parent or person responsible for supporting the child has sufficient resources, the court may require them to reimburse the county or municipality for the cost of the guardian ad litem wholly or partly.

If a truancy court finds that a child engaged in truant conduct, the court would be able to, after a hearing, enter remedial orders for the child, parent(s), or any other person contributing to the

truant conduct. These remedial orders would vary, but could include attendance at school or tutoring, participation in certain programs or community service, or suspension of drivers' licenses or permits for the children. If the child, parent, or other person contributing to truant conduct failed to obey the truancy court orders, the truancy court could find the person in contempt of court. Upon the finding of truant conduct, the child, parent, or other person responsible for the child's support could be assessed a local court cost of \$50, if the party were financially able to pay that cost. Those court costs collected would be deposited in a special account to be used only to offset the cost of the truancy court's operations.

A child found to have engaged in truant conduct could apply to have his or her records sealed by the truancy court at age 18, and the truancy court would be required to seal the records after determining the child had complied with the court ordered remedies.

Methodology

The Office of Court Administration does not anticipate the new court procedures would cause any significant increase or decrease in the workload of the courts. The Texas Education Agency (TEA) indicated that to the extent sanctions may be required there may be costs associated that cannot be determined at this time.

Repealing the offenses in the Education Code, which are Class C misdemeanors, would result in a loss of court cost revenue to the state from these cases. Including cases from Dallas and Fort Bend Truancy courts, as well as justice and municipal courts, there were 93,786 complaints of failure to attend school in fiscal year 2014. The Office of Court Administration estimated that 50 percent 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 46,893 cases in which court costs would have been assessed ($93,783 \times 0.5 = 46,893$). 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 \$2,532,222 ($46,893 \times \$54 = \$2,532,222$). Assuming a collection rate to the assessed court costs of 50 percent would result in an estimated \$1,266,111 in lost court cost revenue per year ($\$2,532,222 \times 0.5 = \$1,266,111$).

Removing truancy from the definition of conduct indicating need for supervision (CINS) would result in savings to the state from a reduction in the state share of juvenile probation costs for those children who would otherwise be supervised for truancy. In fiscal year 2014, 357 children were placed on local supervision for truancy. Based on the average cost of \$5.40 per day of juvenile probation supervision found in the General Appropriations Act, this would result in an annual savings of just under \$300,000. First year savings would be less because of a delay between when an offense is committed and a child would begin supervision. If the bill becomes effective immediately, savings in the first year would be slightly greater.

Local Government Impact

County and municipal governments would see reduced revenue from the local portion of courts costs collected for the repealed Class C misdemeanor offense, which could be offset by the \$50 court cost in the new truancy court, as well as a reduction in fines collected.

Assuming 50 percent of 93,786 failure to attend cases have court costs assessed and a collection rate of 50 percent, there would be a loss of \$770,772 in revenue to local governments per year. The new truancy court would impose a court cost of \$50 on findings of truant, if the defendant is able to pay. OCA estimates that 90 percent of families will be able to pay. Assuming a 50 percent collection rate on those that are assessed the court cost, this court cost would yield a gain of

approximately \$1,055,093 in revenue per year. There would be an indeterminate loss in fine revenue to local governments from the repeal of failure to attend school cases.

Removing truancy from the definition of conduct indicating need for supervision (CINS) would also result in local savings from a reduction in the local share of juvenile probation costs for those children who would otherwise be supervised for truancy. In fiscal year 2014, 357 children were placed on local supervision for truancy. Based on the average cost of \$7.85 per day of juvenile probation supervision found in the General Appropriations Act, this would result in an annual savings of approximately \$435,000. First year savings would be less because of a delay between when an offense is committed and a child would begin supervision. If the bill becomes effective immediately, savings in the first year would be slightly greater.

Travis, Midland, and El Paso Counties indicated they may have to add or reassign staff to expunge the records as required by the bill and to meet other requirements of the bill. The impact may be significant but cannot be determined at this time and would vary by jurisdiction.

Earlier interventions for some students could affect attendance rates and thus school district funding, but there are no data to estimate the possible fiscal impact. There may be additional costs to school districts to either hire a truancy prevention facilitator or to add these duties to an existing employee. There may be costs to adopt policies for truancy prevention measures. Not following these measures could lead to sanctions from the TEA.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 405 Department of Public Safety, 644
Juvenile Justice Department, 701 Central Education Agency

LBB Staff: UP, KJo, JJ, JQ, KVe, AW, JPo