By:  Meyer (Senate Sponsor - Whitmire) H.B. No. 3165

(In the Senate - Received from the House April 19, 2021; May 4, 2021, read first time and referred to Committee on Criminal Justice; May 13, 2021, reported favorably by the following vote: Yeas 7, Nays 0; May 13, 2021, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Whitmire        X

Huffman         X

Bettencourt     X

Birdwell        X

Hinojosa        X

Miles           X

Nichols         X

A BILL TO BE ENTITLED

AN ACT

relating to an affirmative defense to an allegation of truant conduct.

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

SECTION 1.  Section 65.003, Family Code, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c)  It is an affirmative defense to an allegation of truant conduct that one or more of the absences required to be proven:

(1)  have been excused by a school official or by the court;

(2)  [~~or that one or more of the absences~~] were involuntary; or

(3)  were due to the child's voluntary absence from the child's home because of abuse, as defined by Section 261.001.

(d)  The affirmative defense provided by Subsection (c) is not available if, after deducting the absences described by that subsection, [~~but only if~~] there remains a sufficient [~~is an insufficient~~] number of [~~unexcused or voluntary~~] absences [~~remaining~~] to constitute truant conduct.

(e)  In asserting an affirmative defense described by Subsection (c), the [~~The~~] burden is on the child to show by a preponderance of the evidence that the absence:

(1)  has been or should be excused;

(2)  [~~or that the absence~~] was involuntary; or

(3)  was due to the child's voluntary absence from the child's home because of abuse, as defined by Section 261.001.

(f)  A decision by the court to excuse an absence for purposes of an affirmative defense under Subsection (c) [~~this subsection~~] does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

SECTION 2.  This Act applies beginning with the 2021-2022 school year.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

\* \* \* \* \*