

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;

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

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

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

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

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

President of the Senate

Speaker of the House

I certify that H.B. No. 3165 was passed by the House on April 16, 2021, by the following vote: Yeas 145, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3165 was passed by the Senate on May 19, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor