

1-1 By: Meyer (Senate Sponsor - Whitmire) H.B. No. 3165  
1-2 (In the Senate - Received from the House April 19, 2021;  
1-3 May 4, 2021, read first time and referred to Committee on Criminal  
1-4 Justice; May 13, 2021, reported favorably by the following vote:  
1-5 Yeas 7, Nays 0; May 13, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Whitmire	X		
1-9	Huffman	X		
1-10	Bettencourt	X		
1-11	Birdwell	X		
1-12	Hinojosa	X		
1-13	Miles	X		
1-14	Nichols	X		

1-15 A BILL TO BE ENTITLED  
1-16 AN ACT

1-17 relating to an affirmative defense to an allegation of truant  
1-18 conduct.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 65.003, Family Code, is amended by  
1-21 amending Subsection (c) and adding Subsections (d), (e), and (f) to  
1-22 read as follows:

1-23 (c) It is an affirmative defense to an allegation of truant  
1-24 conduct that one or more of the absences required to be proven:

1-25 (1) have been excused by a school official or by the  
1-26 court;

1-27 (2) ~~[or that one or more of the absences]~~ were  
1-28 involuntary; or

1-29 (3) were due to the child's voluntary absence from the  
1-30 child's home because of abuse, as defined by Section 261.001.

1-31 (d) The affirmative defense provided by Subsection (c) is  
1-32 not available if, after deducting the absences described by that  
1-33 subsection, ~~[but only if]~~ there remains a sufficient ~~[is an~~  
1-34 ~~insufficient]~~ number of ~~[unexcused or voluntary]~~ absences  
1-35 ~~[remaining]~~ to constitute truant conduct.

1-36 (e) In asserting an affirmative defense described by  
1-37 Subsection (c), the ~~[The]~~ burden is on the child to show by a  
1-38 preponderance of the evidence that the absence:

1-39 (1) has been or should be excused;

1-40 (2) ~~[or that the absence]~~ was involuntary; or

1-41 (3) was due to the child's voluntary absence from the  
1-42 child's home because of abuse, as defined by Section 261.001.

1-43 (f) A decision by the court to excuse an absence for  
1-44 purposes of an affirmative defense under Subsection (c) ~~[this~~  
1-45 ~~subsection]~~ does not affect the ability of the school district to  
1-46 determine whether to excuse the absence for another purpose.

1-47 SECTION 2. This Act applies beginning with the 2021-2022  
1-48 school year.

1-49 SECTION 3. This Act takes effect immediately if it receives  
1-50 a vote of two-thirds of all the members elected to each house, as  
1-51 provided by Section 39, Article III, Texas Constitution. If this  
1-52 Act does not receive the vote necessary for immediate effect, this  
1-53 Act takes effect September 1, 2021.

1-54 \* \* \* \* \*