

By: Creighton

S.B. No. 1488

A BILL TO BE ENTITLED

AN ACT

relating to truancy and the offense of a parent contributing to nonattendance; creating an offense; increasing a criminal penalty.

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

SECTION 1. Article 45.0541(a), Code of Criminal Procedure, is amended to read as follows:

(a) In this article, "truancy offense" means an offense committed under:

(1) the former Section 25.094, Education Code; or

(2) Section 65.003, Family Code.

SECTION 2. Section 25.093(c), Education Code, is amended to read as follows:

(c) An offense under Subsection (a) is a Class C misdemeanor ~~[, punishable by fine only, in an amount not to exceed:~~

~~[(1) \$100 for a first offense,~~

~~[(2) \$200 for a second offense,~~

~~[(3) \$300 for a third offense,~~

~~[(4) \$400 for a fourth offense, or~~

~~[(5) \$500 for a fifth or subsequent offense].~~

SECTION 3. Section 25.095(a), Education Code, is amended to read as follows:

(a) A school district or open-enrollment charter school shall notify a student's parent in writing at the beginning of the school year that if the student is absent from school on 10 or more

1 days or parts of days within a six-month period in the same school  
2 year:

3 (1) the student's parent is subject to prosecution  
4 under Section 25.093; and

5 (2) the student is subject to referral to and  
6 prosecution by a truancy court for truant conduct under Section  
7 65.003(a), Family Code.

8 SECTION 4. Section 65.001(b), Family Code, is amended to  
9 read as follows:

10 (b) The purpose of this chapter is to encourage school  
11 attendance by creating simple [~~civil judicial~~] procedures through  
12 which children are held accountable for excessive school absences.

13 SECTION 5. The heading to Section 65.003, Family Code, is  
14 amended to read as follows:

15 Sec. 65.003. TRUANT CONDUCT; OFFENSE.

16 SECTION 6. Sections 65.003(a), (b), (c), and (d), Family  
17 Code, are amended to read as follows:

18 (a) Notwithstanding any other law, a [A] child commits an  
19 offense [~~engages in truant conduct~~] if the child is required to  
20 attend school under Section 25.085, Education Code, and fails to  
21 attend school on 10 or more days or parts of days within a six-month  
22 period in the same school year.

23 (b) An offense under this section is a Class C misdemeanor  
24 [~~Truant conduct may be prosecuted only as a civil case in a truancy~~  
25 ~~court~~].

26 (c) It is an affirmative defense to prosecution under this  
27 section [~~an allegation of truant conduct~~] that one or more of the

1 absences required to be proven:

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

4 (2) were involuntary; or

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

7 (d) The affirmative defense provided by Subsection (c) is  
8 not available if, after deducting the absences described by that  
9 subsection, there remains a sufficient number of absences to  
10 constitute an offense under this section [~~truant conduct~~].

11 SECTION 7. Section 65.101(a), Family Code, is amended to  
12 read as follows:

13 (a) A child may be found to have committed an offense under  
14 Section 65.003 [~~engaged in truant conduct~~] only after an  
15 adjudication hearing conducted in accordance with the provisions of  
16 this chapter.

17 SECTION 8. Section 65.103, Family Code, is amended to read  
18 as follows:

19 Sec. 65.103. REMEDIAL ORDER. (a) A truancy court may enter  
20 a remedial order requiring a child who has committed an offense  
21 under Section 65.003 [~~been found to have engaged in truant conduct~~]  
22 to:

23 (1) attend school without unexcused absences;

24 (2) attend a preparatory class for the high school  
25 equivalency examination administered under Section 7.111,  
26 Education Code, if the court determines that the individual is  
27 unlikely to do well in a formal classroom environment due to the

1 individual's age;

2 (3) if the child is at least 16 years of age, take the  
3 high school equivalency examination administered under Section  
4 7.111, Education Code, if that is in the best interest of the child;

5 (4) attend a nonprofit, community-based special  
6 program that the court determines to be in the best interest of the  
7 child, including:

8 (A) an alcohol and drug abuse program;

9 (B) a rehabilitation program;

10 (C) a counseling program, including a  
11 self-improvement program;

12 (D) a program that provides training in  
13 self-esteem and leadership;

14 (E) a work and job skills training program;

15 (F) a program that provides training in  
16 parenting, including parental responsibility;

17 (G) a program that provides training in manners;

18 (H) a program that provides training in violence  
19 avoidance;

20 (I) a program that provides sensitivity  
21 training; and

22 (J) a program that provides training in advocacy  
23 and mentoring;

24 (5) complete not more than 50 hours of community  
25 service on a project acceptable to the court; and

26 (6) participate for a specified number of hours in a  
27 tutorial program covering the academic subjects in which the child

1 is enrolled that are provided by the school the child attends.

2 (b) A truancy court may not order a child who has committed  
3 an offense under Section 65.003 [~~been found to have engaged in~~  
4 ~~truancy conduct~~] to[+]

5 [~~(1)~~] attend a juvenile justice alternative education  
6 program, a boot camp, or a for-profit truancy class[~~+or~~

7 [~~(2)~~ ~~perform more than 16 hours of community service~~  
8 ~~per week under this section~~].

9 (c) In addition to any other order authorized by this  
10 section, a truancy court may order the Department of Public Safety  
11 to suspend the driver's license or permit of a child who has  
12 committed an offense under Section 65.003 [~~been found to have~~  
13 ~~engaged in truancy conduct~~]. If the child does not have a driver's  
14 license or permit, the court may order the Department of Public  
15 Safety to deny the issuance of a license or permit to the child. The  
16 period of the license or permit suspension or the order that the  
17 issuance of a license or permit be denied may not extend beyond the  
18 maximum time period that a remedial order is effective as provided  
19 by Section 65.104.

20 SECTION 9. The changes in law made by this Act apply only to  
21 an offense committed or conduct that occurs on or after the  
22 effective date of this Act. An offense committed or conduct that  
23 occurs before the effective date of this Act is governed by the law  
24 in effect on the date the offense was committed or the conduct  
25 occurred, and the former law is continued in effect for that  
26 purpose. For purposes of this section, an offense is committed or  
27 conduct occurs before the effective date of this Act if any element

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1 of the offense or conduct occurs before that date.

2 SECTION 10. This Act takes effect September 1, 2023.