

SUBJECT: Truancy prevention and the offense of failure to attend school

COMMITTEE: Corrections — committee substitute recommended

VOTE: 4 ayes — Parker, White, Riddle, J.D. Sheffield
1 nay — Rose
2 absent — Allen, Toth

SENATE VOTE: On final passage, April 25 — 27-3 (Hancock, Nelson, Paxton), on Local and Uncontested Calendar

WITNESSES: No public hearing

BACKGROUND: Education Code, sec. 25.094 makes it a class C misdemeanor for students between the ages of 12 and 17 to fail to attend school on 10 or more days within a six-month period or on three or more days within a four-week period. Offenses may be prosecuted in a constitutional county court in a county with a population of 1.75 million or more, a justice court, or a municipal court.

DIGEST: *(This analysis reflects the House sponsor's intended floor substitute.)*
CSSB 1234 would require school districts to adopt truancy prevention measures to intervene before a student commits the Education Code offense of failure to attend school.

The measures could include a behavior improvement plan that included:

- a specific description of the behavior that was required or prohibited for the student;
- the period for which the plan would be effective, not to exceed 45 days; and
- the penalties for additional absences, including disciplinary action, referral to a juvenile court, school-based community service, or referral to counseling or other services.

A referral to services could include participation by the child's parents or

guardians.

The bill would require school districts to employ a truancy prevention facilitator or designate an existing employee to implement the measures.

Districts would be prohibited from revoking the enrollment of any student 18 and older who was voluntarily attending school on a day when the student was physically present. After the third unexcused absence of such a student, a school district would be required to issue a warning letter stating that the enrollment could be revoked for the remainder of the school year if the student had more than five unexcused absences in a semester. As an alternative, a district could impose a behavior improvement plan.

Districts would be required to provide evidence that the student's parent contributed to the student's failure to attend school before issuing tickets to both the student and parent.

CSSB 1234 would implement a graduated schedule of fines for failure to attend school ranging from \$100 for a first offense and increasing by \$100 per offense up to \$500 for the fifth offense.

The bill also would remove school boards from the list of governmental bodies that could agree to jointly employ a case manager or jointly contribute to the costs of a case manager for cases involving juvenile offenders.

The bill would take effect September 1, 2013 and would apply only to conduct occurring on or after that date.

**SUPPORTERS
SAY:**

Texas, more than most other states, involves the criminal court system in truancy issues. CSSB 1234 would bring Texas more in line with the vast majority of states by revising provisions related to truancy to reduce the exposure of children to the criminal justice system. Criminalizing student misbehavior can lead to students dropping out of school and increase their risk of incarceration, often culminating in the so-called "school-to-prison pipeline."

The bill would require school districts to do more than mark students absent before issuing them a ticket. They would be required to adopt truancy prevention measures and hire or designate an existing employee as

a truancy prevention facilitator.

A student's failure to attend school often is due to socioeconomic issues. The bill would require schools to intervene, identify why a student was skipping school, and develop a plan to modify the behavior before referring a student to criminal court.

Some school districts are overusing the court system to deal with truant students. This can result in students and their parents racking up hundreds of dollars in fines and court costs, and even can result in arrest warrants being issued for students once they turn 17 years old.

The bill would prevent districts from revoking the enrollment of students older than age 18 on days the students were present in school. There have been instances of authorities arriving to arrest students who had returned to school for trancies they received earlier in their school careers.

OPPONENTS
SAY:

Schools cannot accomplish their mission to educate if students fail to attend. Truancy laws are designed to compel attendance and sometimes that requires the involvement of the courts. SB 1234 would lessen reliance on the courts and impose new requirements on districts for social-work type intervention in the lives of students who repeatedly skip school.

Sometimes, when other methods of addressing truancy do not work, a judge can get a student's attention and change the behavior. Judges who handle these cases may know of community resources unavailable to school districts.

Many school districts work closely with local justice and municipal courts to successfully address truancy. Cases are most likely to result in deferred adjudication or dismissal than in a conviction, and students are more likely to be required to attend tutoring or perform community service than to be fined.

NOTES:

Compared to the floor substitute which the House sponsor plans to offer, the committee substitute would have:

- required a county court, justice court, municipal court, school district or juvenile probation department to employ a case manager or jointly employ one to handle truancy cases; and
- exempted districts that employed a truancy prevention facilitator from having to employ a case manager.