

BILL ANALYSIS

C.S.H.B. 2398
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There is a widely held belief that a student should not be prevented from attending school because of a financial constraint that prevents the student from making essential purchases, such as a pair of shoes or a backpack. Interested parties support finding a way to provide assistance to schoolchildren in need. C.S.H.B. 2398 seeks to address this need and other issues relating to truancy.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2398 amends the Government Code to authorize the governing body of a municipality or the commissioners court of a county to establish a judicial donation trust fund as a separate account held outside the municipal or county treasury to be used to assist certain needy children and families in accordance with the bill's provisions. The bill authorizes the governing body of a municipality or the commissioners court of a county to accept a gift, grant, donation, or other consideration from a public or private source that is designated for the judicial donation trust fund. The bill requires such money to be deposited in the judicial donation trust fund and authorizes such money to only be disbursed in accordance with the bill's provisions. The bill requires interest and income from the assets of the judicial donation trust fund to be credited to and deposited in the trust fund.

C.S.H.B. 2398 requires the governing body of a municipality or the commissioners court of a county to adopt the procedures necessary to receive and disburse money from the judicial donation trust fund and to establish eligibility requirements for disbursement of money to assist needy children or families who appear before a justice or municipal court for a criminal offense, as applicable, by providing money for resources and services that eliminate barriers to school attendance or that seek to prevent criminal behavior.

C.S.H.B. 2398 authorizes the judge of a justice or municipal court to award money from a judicial donation trust fund to eligible children or families who appear before the court for a truancy or curfew violation or in another misdemeanor offense proceeding before the court. The bill authorizes a judge of a justice or municipal court to order the municipal or county treasurer to issue payment from the judicial donation trust fund for the awarded money.

C.S.H.B. 2398 amends the Code of Criminal Procedure to authorize a county, justice, or municipal court, at the court's discretion, to dismiss a charge against a defendant alleging the defendant committed a parent contributing to nonattendance offense or a failure to attend school offense if the court finds that a dismissal would be in the interest of justice because there is a low likelihood of recidivism by the defendant or because sufficient justification exists for the failure to attend school.

C.S.H.B. 2398 entitles an individual who has been convicted of a truancy offense, defined as a failure to attend school offense, or has had a complaint for such an offense dismissed to have the conviction or complaint and records relating to the conviction or complaint automatically expunged. The bill requires the court in which the individual was convicted or a complaint for a truancy offense was filed to order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the individual's record. The bill establishes that, after entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose. The bill requires the court to inform the individual of the expunction. The bill's provisions relating to the automatic expunction of truancy records apply to the expunction or destruction of a truancy record or file existing on or after the bill's effective date regardless of when the offense or conduct that is the subject of the record or file was committed.

C.S.H.B. 2398 amends the Family Code to authorize a juvenile court, at the court's discretion, to dismiss with prejudice a case involving a child alleged to have been absent from school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period if the court finds that a dismissal would be in the interest of justice because there is a low likelihood of recidivism by the defendant or because sufficient justification exists for the failure to attend school.

C.S.H.B. 2398 amends the Local Government Code to include a donation to a judicial donation trust fund among the donations a commissioners court is authorized to accept on behalf of the county.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2398 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle B, Title 2, Government Code, is amended by adding Chapter 36 to read as follows:

CHAPTER 36. JUDICIAL DONATION TRUST FUNDS

Sec. 36.001. ESTABLISHMENT OF TRUST FUNDS.

Sec. 36.002. PROCEDURES AND ELIGIBILITY. The governing body of a

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle B, Title 2, Government Code, is amended by adding Chapter 36 to read as follows:

CHAPTER 36. JUDICIAL DONATION TRUST FUNDS

Sec. 36.001. ESTABLISHMENT OF TRUST FUNDS.

Sec. 36.002. PROCEDURES AND ELIGIBILITY. The governing body of a

municipality or the commissioners court of a county shall:

(1) adopt the procedures necessary to receive and disburse money from the judicial donation trust fund under this chapter; and

(2) establish eligibility requirements for disbursement of money under this chapter to assist needy children or families who appear before a municipal or justice court, as applicable, by providing money for resources and services that eliminate barriers to school attendance or that seek to prevent delinquent conduct.

Sec. 36.003. USE OF FUNDS IN ACCOUNT. (a) The judge of a justice or municipal court, in accordance with Section 36.002, may award money from a judicial donation trust fund established under Section 36.001 to eligible children or families who appear before the court for a truancy or curfew violation or in another proceeding before the court.

(b) A judge of a justice or municipal court may order the municipal or county clerk to issue a warrant from the judicial donation trust fund for money awarded under this section.

No equivalent provision.

No equivalent provision.

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municipality or the commissioners court of a county shall:

(1) adopt the procedures necessary to receive and disburse money from the judicial donation trust fund under this chapter; and

(2) establish eligibility requirements for disbursement of money under this chapter to assist needy children or families who appear before a justice or municipal court for a criminal offense, as applicable, by providing money for resources and services that eliminate barriers to school attendance or that seek to prevent criminal behavior.

Sec. 36.003. USE OF FUNDS IN ACCOUNT. (a) The judge of a justice or municipal court, in accordance with Section 36.002, may award money from a judicial donation trust fund established under Section 36.001 to eligible children or families who appear before the court for a truancy or curfew violation or in another misdemeanor offense proceeding before the court.

(b) A judge of a justice or municipal court may order the municipal or county treasurer to issue payment from the judicial donation trust fund for money awarded under this section.

SECTION 2. Subchapter B, Chapter 45, Code of Criminal Procedure, is amended by adding Article 45.0531 to read as follows:

Art. 45.0531. DISMISSAL OF PARENT CONTRIBUTING TO NONATTENDANCE OR FAILURE TO ATTEND SCHOOL CHARGE. Notwithstanding any other law, a county, justice, or municipal court, at the court's discretion, may dismiss a charge against a defendant alleging the defendant committed an offense under Section 25.093 or 25.094, Education Code, if the court finds that a dismissal would be in the interest of justice because:

(1) there is a low likelihood of recidivism by the defendant; or

(2) sufficient justification exists for the failure to attend school.

SECTION 3. Subchapter B, Chapter 45, Code of Criminal Procedure, is amended by

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adding Article 45.0541 to read as follows:
Art. 45.0541. AUTOMATIC EXPUNCTION OF TRUANCY RECORDS. (a) In this article, "truancy offense" means an offense committed under Section 25.094, Education Code.
(b) An individual who has been convicted of a truancy offense or has had a complaint for a truancy offense dismissed is entitled to have the conviction or complaint and records relating to the conviction or complaint automatically expunged.
(c) The court in which the individual was convicted or a complaint for a truancy offense was filed shall order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the individual's record. After entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose. The court shall inform the individual of the expunction.

No equivalent provision.

SECTION 4. Section 54.03, Family Code, is amended by adding Subsection (g-1) to read as follows:
(g-1) If the child is alleged to have engaged in conduct indicating a need for supervision under Section 51.03(b)(2), the court, at the court's discretion, may dismiss the case with prejudice if the court finds that a dismissal would be in the interest of justice because:
(1) there is a low likelihood of recidivism by the defendant; or
(2) sufficient justification exists for the failure to attend school.

No equivalent provision.

SECTION 5. Section 81.032, Local Government Code, is amended to read as follows:
Sec. 81.032. ACCEPTANCE OF DONATIONS AND BEQUESTS. The commissioners court may accept a gift, grant, donation, bequest, or devise of money or other property on behalf of the county, including a donation under Chapter 36, Government Code, for the purpose of performing a function conferred by law on

the county or a county officer.

No equivalent provision.

SECTION 6. (a) Article 45.0531, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

(b) Section 54.03(g-1), Family Code, as added by this Act, applies only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurred before that date.

No equivalent provision.

SECTION 7. Article 45.0541, Code of Criminal Procedure, as added by this Act, applies to the expunction or destruction of a truancy record or file existing on or after the effective date of this Act regardless of when the offense or conduct that is the subject of the record or file was committed.

SECTION 2. This Act takes effect September 1, 2015.

SECTION 8. Same as introduced version.