

- SUBJECT:** Creating criminal penalties for truants and their parents
- COMMITTEE:** Juvenile Justice and Family Issues — committee substitute recommended
- VOTE:** 6 ayes — Goodman, A. Reyna, E. Reyna, Menendez, Morrison, Naishtat  
0 nays  
3 absent — P. King, Nixon, Tillery
- WITNESSES:** For — Chuck Brawner, Texas Association of School District Police  
Against — None
- BACKGROUND:** Education Code, secs. 25.085 through 25.096 establish guidelines for compulsory attendance in public schools. If a child misses school, the attendance officer will send a written warning to the parents, and if the child continues to be absent from school, the attendance officer must file a complaint with the court. An offense under this section is a class C misdemeanor (maximum fine of \$500). Each day that the student is absent is a separate offense.
- School districts are not required to file a complaint of truancy with a court, and there is concern that some school districts are not filing truancy complaints until the number of missed days is so high that it is difficult to prevent the student from dropping out of school.
- DIGEST:** CSHB 3461 would amend and repeal various sections of the Education Code, the Code of Criminal Procedure, and the Family Code relating to truancy and criminal penalties for truants and parents.
- CSHB 3461 would require a school district to record the name, address, and birth date of the person who enrolled a child in a public school.
- CSHB 3461 would give peace officers and other attendance officers acting as truancy officers the following powers and duties:

- ! investigating each truancy case referred to the officer;
- ! enforcing school attendance by referring the student to juvenile court or filing a complaint against the student or a parent in a justice or municipal court;
- ! serving court-ordered legal process;
- ! reviewing school attendance records for each student investigated;
- ! maintaining an investigation record of attendance violations and related court actions and submitting the record if officially requested; and
- ! contacting the parent though a home visit or in some other way.

A commissioned peace officer could take a student into custody with the permission of the parent or in response to a court-ordered legal process. An attendance officer who was not a peace officer could escort the student to a school campus with permission of the parent and direct the student to be taken into custody if the officer was informed of a court-ordered legal process to do so.

The bill would delete the requirement that the officer must file a complaint in the court of referral, and if no referral were made, the officer would be required to refer the child to juvenile probation. The court could order a parent to attend a program to help parents address the student's truancy if the student received a conviction, deferred adjudication, or deferred disposition. Any parent disobeying a court order could be held in contempt of court. The burden of proof would be on the parent to prove that one or more absences should be excused by the court.

A student would be considered to have committed an offense of truancy, which is a class C misdemeanor (maximum fine of \$500), if the student had been found by a justice or municipal court or a juvenile court in a county of less than 100,000 people to have been absent from school for 10 or more full or part days within a six-month period in the same school year or on three or more full or part days within a four-week period. The burden of proof would be on the student to prove that one or more absences should be excused by the court. It would be an affirmative defense to prosecution if the absences were excused by the school or were involuntary.

The school district would have to send a written notice to students' parents at the beginning of the school year informing parents of their duties and

possible consequences if their children were to incur excessive absences during the school year.

If a student failed to attend school for 10 or more days in a six-month period without an excuse, the school district would have to file a complaint against the student or the parents or both in a justice or municipal court, in a juvenile court in a county with less than 100,000 people, or refer the student to juvenile court for conduct indicating a need for supervision.

If a child failed to obey a court order or pay a fine, the court would be authorized to retain jurisdiction and hold the child in contempt of court and could impose a fine up to \$500 or order the Department of Public Safety to suspend or deny issuance of the child's driver's license or permit until the child complied with the court order.

If a court found that a student had been truant, the court would be authorized to enter an order requiring that the student must attend school, take the high school equivalency examination, and/or undertake any number of programs or complete prescribed community service. A court would have to issue a summons requiring a parent to personally appear at the child's hearing. Failure to appear would be considered a class C misdemeanor. A truant's parent also could be required to attend a class for students at risk of dropping out.

A disposition order would be effective for a date specified by the court up to 180 days or the end of the school year, whichever was longer.

An individual, after reaching the age of 18, could apply to the court to have a conviction of truancy expunged if there had been only one conviction for truancy. CSHB 3461 would establish guidelines and procedures for the application and granting of expunction.

An appropriate government entity could employ a case manager upon approval of an appropriate authority, and could apply to the criminal justice division of the governor's office for reimbursement of the costs.

A justice or municipal court also could refer a child or order referral of a child's parent to the Department of Protective and Regulatory Services for

attendance at a number of special programs, including rehabilitation and job training. The court also could order the parent to attend a parenting class or the child's school classes and could require parents to pay for training classes or court costs.

If an officer took a child into custody for a municipal or justice court jurisdiction offense or for violation of a juvenile curfew ordinance, the child would have to be taken into nonsecure, continuous visual custody for up to six hours.

In a county of less than 100,000 people, truancy would be considered conduct indicating a need for supervision.

CSHB 3461 would take effect September 1, 2001.

NOTES:

The substitute made several changes to the original, including providing that in a county of less than 100,000 people, truancy would be considered conduct indicating a need for supervision.