

BILL ANALYSIS

Senate Research Center
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S.B. 106
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Referral of students to adult courts has been an ongoing concern in Texas. Last session the legislature passed measures to reduce the number of students referred to adult courts as well as passing a truancy reform bill. The truancy bill, S.B. 1234, was vetoed. S.B. 106 is a part of S.B. 1234.

Current law states that every child from the ages of six to 17 is required to attend school. If the child has 10 or more unexcused absences within a six-month period, or three or more unexcused absences within a four-week period, the child is considered truant. Truancy is currently a Class C misdemeanor. Violators may be referred to county, municipal, justice, and juvenile courts. The intent of this bill is to reduce the exposure of Texas children to the criminal justice system.

S.B. 106 strengthens guidelines for truancy prevention and intervention measures that are designed to address issues that lead to failure to attend and to decrease the number of court referrals. The bill requires schools to have designated staff to implement truancy prevention and intervention measures and coordinate with the courts. S.B. 106 adds language prohibiting schools from withdrawing students from school for absences if they are physically present at the school.

S.B. 106 also clarifies that a student or a parent may be referred to court unless it is clear that they both contributed to the failure to attend.

S.B. 106 adds language to the Code of Criminal Procedure that states that if a high school equivalency certificate is brought to the courts for dismissal purposes it has to be a Texas Education Agency accredited course (this is at the request of judges and schools).

S.B. 106 also creates a fine scale to protect youth from excessive fines. The bill allows for a \$100 fine on the first violation, \$200 on the second, ascending to \$500 for five or more violations instead of allowing up to a \$500 fine on the first offense.

As proposed, S.B. 106 amends current law relating to the prevention of truancy and the offense of failure to attend school and provides a penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 45.054(i), Code of Criminal Procedure, as follows:

(i) Requires a county, justice, or municipal court to dismiss the complaint against an individual alleging that the individual committed an offense under Section 25.094 (Failure to Attend School), Education Code, if:

(1) Makes no change to this subdivision;

(2) the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate after taking a high school equivalency examination administered under Section 7.111 (High School Equivalency Examinations), Education Code.

SECTION 2. Amends Article 45.055(e), Code of Criminal Procedure, as follows:

(e) Requires a court to expunge an individual's conviction under Section 25.094, Education Code, and records relating to a conviction, regardless of whether the individual has previously been convicted of an offense under that section, if:

(1) Makes no changes to this subdivision;

(2) the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate after taking a high school equivalency examination administered under Section 7.111, Education Code, before the individual's 21st birthday.

SECTION 3. Amends Section 25.085, Education Code, by amending Subsection (e) and adding Subsections (g) and (h), as follows:

(e) Requires a person who voluntarily enrolls in school or voluntarily attends school after the person's 18th birthday to attend school each school day for the entire period the program of instruction is offered. Authorizes a school district to revoke, for the remainder of the school year, the enrollment of a person who has more than five absences in a semester that are not excused under Section 25.087 (Excused Absences), but prohibits a school district from revoking the enrollment of a person under this subsection on a day on which the person is physically present at school. Authorizes a person whose enrollment is revoked under this subsection to be considered an unauthorized person on school district grounds for purposes of Section 37.107 (Trespass on School Grounds).

(g) Requires a school district to issue a warning letter to the person that states the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester, after the third unexcused absence of a person described by Subsection (e).

(h) Authorizes a school district to impose a behavior improvement plan described by Section 25.0915 (a-1)(1) (requiring a school district to adopt truancy prevention measures), as an alternative to revoking a person's enrollment under Subsection (e).

SECTION 4. Amends Section 25.0915, Education Code by amending Subsection (a) and adding Subsection (a-1), (a-2), (d), and (e), as follows:

(a) Requires a school district to adopt truancy prevention measures designed to:

(1) address student conduct related to truancy in the school setting before the student violates Section 25.094;

(2)-(3) Makes no change to these subdivisions.

(a-1) Authorizes a school district to take one or more of the following actions as a truancy prevention measure under Subsection (a):

(1) impose:

(A) a behavior improvement plan on the student to be signed by an employee of the school, that the school district has made a good faith effort to have it signed by the student and the student's parent or guardian, and that includes:

- (i) a specific description of the behavior that is required or prohibited for the student;
- (ii) the period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or
- (iii) the penalties for additional absences, including additional disciplinary action or the referral of the student to a juvenile court; or

(B) school-based community service; or

(2) refer the student to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the student's truancy.

(a-2) Authorizes a referral made under Subsection (a-1)(2) to include participation by the child's parent or guardian if necessary.

(d) Requires a school district, except as provided by Subsection (e), to employ a truancy prevention facilitator to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus. Requires the truancy prevention facilitator to meet to discuss effective truancy prevention measures with a case manager or other individual designated by a juvenile or criminal court to provide services to students of the school district in truancy cases at least annually.

(e) Authorizes a school district to designate an existing district employee to implement the truancy prevention measures required by this section and any other effective truancy prevention measures as determined by the school district or campus instead of employing a truancy prevention facilitator.

SECTION 5. Amends Section 25.094 (e), Education Code, as follows:

(e) Provides that an offense under this section is a misdemeanor, rather than a Class C misdemeanor, punishable by a fine 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 6. Amends Sections 25.0951 (a) and (b), Education Code, as follows:

(a) Requires a school district, within 10 school days of the student's 10th absence, if a student fails to attend school without excuse on 10 or more days or parts of days within a six-month period in the same school year, to:

- (1) file a complaint against the student or the student's parent or, if the district provides evidence that both the student and the student's parent contributed to the student's failure to attend school, both the student and the parent in a county, justice, or municipal court for an offense under Section 25.093 (Parent Contributing to Nonattendance) or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000 for conduct that violates Section 25.094; or

(2) Make no change to this subdivision.

(b) Authorizes the school district, if a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described by Subsection (a), to:

(1) Makes a conforming change;

(2) Makes no change to this subdivision.

SECTION 7. Provides that the changes in law made by this Act apply only to conduct violating Section 25.094, Education Code, on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2015.