

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 106
By: Whitmire et al.
Criminal Justice
4/2/2015
Committee Report (Substituted)

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. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 106 amends current law relating to court jurisdiction and procedure relating to truancy, provides criminal penalties, and imposes a court cost.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Education Agency in SECTION 9 (Section 25.0915, Education Code) of this bill.

Rulemaking authority is expressly granted to the Supreme Court of the State of Texas in SECTION 17 (Section 62.13, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 4.14(g), Code of Criminal Procedure, as follows:

(g) Authorizes a municipality to enter into an agreement with a contiguous municipality or a municipality with boundaries that are within one-half mile of the municipality seeking to enter into the agreement to establish concurrent jurisdiction of the municipal courts in the municipalities and provide original jurisdiction to a municipal court in

which a case is brought as if the municipal court were located in the municipality in which the case arose, for cases that arise under Section 821.022 (Seizure of Cruelly Treated Animal), Health and Safety Code, rather than for cases that arise under Section 821.022, Health and Safety Code, or Section 25.094 (Failure to Attend School), Education Code.

SECTION 2. Amends Articles 45.0216(f) and (g), Code of Criminal Procedure, as follows:

(f) Requires the court to order the conviction, together with all complaints, verdicts, sentences, and prosecutorial and law enforcement records, and any other documents relating to the offense, expunged from the person's record if the court finds that for a person applying for the expunction of a conviction for an offense described by Section 43.261 (Electronic Transmission of Certain Visual Material Depicting Minor), Penal Code, the person was not found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(7) (relating to delinquent behavior including prostitution), Family Code, rather than Section 51.03(b)(8) (relating to delinquent behavior including electronic transmission of certain visual material depicting a minor), Family Code, while the person was a child.

(g) Deletes existing text providing that this article does not apply to any offense otherwise covered by Section 25.094, Education Code.

SECTION 3. Amends Subchapter B, Chapter 45, Code of Criminal Procedure, by adding Article 45.0541, as follows:

Art. 45.0541. AUTOMATIC EXPUNCTION OF TRUANCY RECORDS. (a) Defines, in this article, "truancy offense."

(b) Provides that 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) 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. Provides 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. Requires the court to inform the individual of the expunction.

SECTION 4. Reenacts and amends Articles 45.056(a) and (c), Code of Criminal Procedure, as amended by Chapters 1213 (S.B. 1419) and 1407 (S.B. 393), Acts of the 83rd Legislature, Regular Session, 2013, as follows:

(a) Authorizes a county court, justice court, municipal court, juvenile probation department, or other appropriate governmental entity, rather than a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity on approval of the commissioners court, city council, juvenile board, or other appropriate authority, rather than the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, to:

(1) and (2) Makes no change to these subdivisions;

(3) agree in accordance with Chapter 791 (Interlocal Cooperation Contracts), Government Code, with any appropriate governmental entity to jointly employ a case manager or to jointly contribute to the costs of a case manager employed by one governmental entity to provide services described by Subdivisions (1) and (2).

(c) Deletes existing text authorizing a county or justice court on approval of the commissioners court or a municipality or municipal court on approval of the city council to employ one or more juvenile case managers who is required to assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases; and who is authorized to provide prevention services to a child considered at-risk of entering the juvenile justice system, and intervention services to juveniles engaged in misconduct prior to cases being filed, excluding traffic offenses.

SECTION 5. Amends Article 102.014(d), Code of Criminal Procedure, to require a person convicted of an offense under Section 25.093 (Parent Contributing to Nonattendance), Education Code, rather than or Section 25.093 or 25.094, Education Code, to pay as taxable court costs \$20 in addition to other taxable court costs.

SECTION 6. (a) Reenacts Section 7.111(a), Education Code, as amended by Chapters 339 (H.B. 2058) and 1217 (S.B. 1536), Acts of the 83rd Legislature, Regular Session, 2013, as follows:

(a) Requires the State Board of Education (board) to provide for the administration of high school equivalency examinations.

(b) Amends Section 7.111(a-1), Education Code, to conform to the amendment of Section 7.111(a), Education Code, by Chapter 1217 (S.B. 1536), Acts of the 83rd Legislature, Regular Session, 2013, and is further amended to read as follows:

(a-1) Authorizes a person who does not have a high school diploma to take the examination in accordance with rules adopted by the board if the person is over 17 years of age; 16 years of age or older and is enrolled in a Job Corps training program under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.), and its subsequent amendments, a public agency providing supervision of the person or having custody of the person under a court order recommends that the person take the examination, or is enrolled in the Texas Military Department's, rather than adjutant general's department's Seaborne ChalleNGe Corps, or is required to take the examination under a court order issued under Section 64.03(a)(3).

SECTION 7. Amends Section 25.085, Education Code, by amending Subsections (e) and (f) 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), except a school district may not revoke 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).

(f) Provides that Section 62.03(a) does not apply, rather than providing that Section 25.094 applies, to a person subject to a policy adopted under this subsection. Provides that Sections 25.093 and 25.095 (Warning Notices) do not apply to the parent of a person subject to a policy adopted under this subsection.

(g) Requires a school district to, after the third unexcused absence of a person described by Subsection (e), 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.

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

SECTION 8. Amends Sections 25.091(a) and (b), Education Code, as follows:

(a) Provides that a peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

- (1) Makes no change to this subdivision;
- (2) to enforce compulsory school attendance requirements by:
 - (A) Makes no change to this subdivision;
 - (B) if the truancy prevention measures fail to meaningfully address the student's conduct:
 - (i) referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Section 62.03(a), rather than referring the student to a juvenile court or filing a complaint against the student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Section 25.094 or under Section 51.03(b)(2) (relating to delinquent conduct including the absence from school ten or more days), Family Code; or
 - (ii) Makes no change to this subdivision;
- (3)-(6) Makes no substantive changes to these subdivisions;
- (7) Deletes this subdivision relating to taking a student into custody with the permission of the student's parent or in obedience to a court-ordered legal process.

(b) Provides that an attendance officer employed by a school district who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

- (1) Makes no change to this subdivision;
- (2) to enforce compulsory school attendance requirements by:
 - (A) Makes no change to this subdivision;
 - (B) if the truancy prevention measures fail to meaningfully address the student's conduct:
 - (i) referring the student to a truancy court if the student has unexcused absences for the amount of time specified under Section 62.03(a), rather than referring the student to a juvenile court or filing a complaint against the student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Section 25.094 or under Section 51.03(b)(2) Family Code; or
 - (ii) Makes no change to this subdivision;
- (3)-(6) Makes no substantive changes to these subdivisions;

(7) Deletes this subdivision relating to if the attendance officer has or is informed of a court-ordered legal process directing that a student be taken into custody and the school district employing the officer does not employ its own police department, to contact the sheriff, constable, or any peace officer to request that the student be taken into custody and processed according to the legal process.

SECTION 9. Amends Section 25.0915, Education Code, by amending Subsections (a), (b), and (c) and adding Subsections (a-1), (a-2), (a-3), (d), (e), (f), and (g), 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 engages in conduct described by Section 62.03(a); and

(2) minimize the need for referrals to truancy court for conduct described by Section 62.03(a), rather than minimize the need for referrals to juvenile court for conduct described by Section 51.03(b)(2), Family Code; and

Deletes existing subdivision (3) relating to minimizing the filing of complaints in county, justice, and municipal courts alleging a violation of Section 25.094.

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

(1) impose a behavior improvement plan on the student that is required to be signed by an employee of the school, that the school district has made a good faith effort to have signed by the student and the student's parent or guardian, and that includes a specific description of the behavior that is required or prohibited for the student, the period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective, or the penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court, or 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.

(a-3) Requires a school district to offer additional counseling to a student and prohibits the district from referring the student to truancy court if the school determines that the student's truancy is the result of: pregnancy, being in the state foster program, homelessness, or being the principal income earner for the student's family.

(b) Requires each referral to truancy court for conduct described by Section 62.03(a) to:

(1) be accompanied by a statement from the student's school certifying that the school applied the truancy prevention measures adopted under Subsection (a) to the student; and the truancy prevention measures failed to meaningfully address the student's school attendance; and

(2) specify whether the student is eligible for or receives special education services under Subchapter A (Educational Programs), Chapter 29.

(c) Requires a truancy court to dismiss a petition filed by a truant conduct prosecutor under Section 63.04 if the court determines that the school district's referral does not comply with Subsection (b), does not satisfy the elements required for truant, is not timely filed, or is otherwise defective.

Deletes existing text requiring a court to dismiss a complaint or referral made by a school district under this section that is not made in compliance with Subsection (b).

(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 at least annually, to meet to discuss effective truancy prevention measures with a case manager or other individual designated by a truancy court to provide services to students of the school district in truancy cases.

(e) Authorizes a school district, instead of employing a truancy prevention facilitator, 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.

(f) Requires the Texas Education Agency (TEA) to adopt rules creating minimum standards for truancy prevention measures adopted by a school district under this section, and establishing a set of best practices for truancy prevention measures.

(g) Requires TEA to adopt rules to provide for sanctions for a school district found to be not in compliance with this section.

SECTION 10. Amends Sections 25.0916(a), (c), (d), (f), (h), and (i), Education Code, as follows:

(a) Provides that this section applies only to a county with two or more courts hearing truancy cases.

Deletes existing text providing that this section applies only to a county with a population greater than 1.5 million; and that includes at least 15 school districts with the majority of district territory in the county, and one school district with a student enrollment of 50,000 or more and an annual dropout rate spanning grades 9-12 of at least five percent, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education.

(c) Requires the county judge and the mayor of the municipality in the county with the greatest population, not later than September 1, 2016, rather than September 1, 2013, to each appoint one member to serve on the committee (created by Section 25.0916(b)) as a representative of each of the following:

(1) a juvenile court, rather than a juvenile district court;

(2)-(5) Makes no change to these subdivisions;

(6) the office of the prosecutor with felony jurisdiction in the county, rather than the office of the district attorney; and

(7) Makes no change to this subdivision;

(d) Changes a reference to September 1, 2013, to September 1, 2016.

(f) Changes a reference to September 1, 2014, to September 1, 2017.

(h) Changes a reference to December 1, 2015, to December 1, 2017.

(i) Provides that this section expires January 1, 2018, rather than January 1, 2016.

SECTION 11. Amends Section 25.093, Education Code, by amending Subsections (a) and (c) and adding Subsection (c-1):

(a) Provides that if a warning is issued as required by Section 25.095(a) (relating to the language of a warning notice), the parent with criminal negligence fails to require the child to attend school as required by law, and the child has absences for the amount of time specified under Section 62.03(a), rather than Section 25.094, the parent commits an offense.

(c) Provides that an offense under Subsection (a) is a Class C misdemeanor, punishable by a fine not to exceed \$100 for a first offense, \$200 for a second offense, \$300 for a third offense, \$400 for a fourth offense, or \$500 for a fifth or subsequent offense.

(c-1) Creates this subsection from existing text and makes no further change.

SECTION 12. Amends Sections 25.095(a) and (c), Education Code, as follows:

(a) Requires a school district or open-enrollment charter school to 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 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:

(1) Makes no change to this subdivision;

(2) the student is subject to referral to a truancy court for truant conduct under Section 62.03(a), rather than the student is subject to prosecution under Section 25.094 or to referral to a juvenile court in a county with a population of less than 100,000 for conduct that violates that section.

(c) Provides that the fact that a parent did not receive a notice under Subsection (a) or (b) does not create a defense under Section 25.093 or 62.03(a), rather than a defense to prosecution under Section 25.093 or Section 25.094.

SECTION 13. Amends Section 25.0951, Education Code, as follows:

Sec. 25.0951. SCHOOL DISTRICT COMPLAINT OR REFERRAL FOR FAILURE TO ATTEND SCHOOL. (a) Requires a school district, 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 within 10 school days of the student's 10th absence refer the student to a truancy court for truant conduct under Section 62.03(a).

Deletes existing text requiring a school district, 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 within 10 school days of the student's 10th absence file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Section 25.093 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 refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

(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 refer the student to a truancy court for truant conduct under Section 62.03(a).

Deletes existing text authorizing 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 file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Section 25.093 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 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 refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code.

(c) Authorizes the school district, if a student fails to attend school without excuse as specified by Subsection (a) or (b), to file a complaint against the student's parent in a county, justice, or municipal court for an offense under Section 25.093 if the school district provides evidence of the parent's criminal negligence. Provides that in this subsection, rather than section, "parent" includes a person standing in parental relation. Makes a conforming change.

(d) Requires a court to dismiss a complaint made by a school district under Subsection (c) that does not comply with this section, does not satisfy the elements required for the offense, is not timely filed, or is otherwise defective, rather than requires a court to dismiss a complaint or referral made by a school district under this section that is not made in compliance with this section.

SECTION 14. Amends Section 25.0952, Education Code, as follows;

Sec. 25.0952. New heading: PROCEDURES APPLICABLE TO PARENT CONTRIBUTING TO NONATTENDANCE OFFENSE. Requires the court to, in a proceeding based on a complaint under Section 25.093, rather than Section 25.093 or 25.094, except as otherwise provided by this chapter, use the procedures and exercise the powers authorized by Chapter 45 (Justice and Municipal Courts), Code of Criminal Procedure.

SECTION 15. Amends Section 29.087(d), Education Code, as follows:

(d) Provides that a student is eligible to participate in a program authorized by this section if the student has been ordered by a court under Section 64.03, rather than Article 45.054 (Failure to Attend School Proceedings), Code of Criminal Procedure, as added by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001, or by the Texas Juvenile Justice Department, rather than the Texas Youth Commission, to take certain actions and if certain conditions are met.

SECTION 16. Amends Section 33.051(2), Education Code, to redefine "missing child."

SECTION 17. Amends Title 2, Education Code, by adding Subtitle J, as follows:

SUBTITLE J. TRUANCY COURT PROCEEDINGS

CHAPTER 62. GENERAL PROVISIONS

Sec. 62.01. SCOPE AND PURPOSE. (a) Provides that this subtitle details the procedures and proceedings in cases involving allegations of truant conduct.

(b) Provides that the purpose of this subtitle is to encourage school attendance by creating simple civil judicial procedures through which children are held accountable for excessive school absences.

Sec. 62.02. DEFINITIONS. Defines, in this subtitle, "child," "juvenile court," "qualified telephone interpreter," and "truancy court."

Sec. 62.03. TRUANT CONDUCT. (a) Provides that a child engages in truant conduct if the child is required to attend school under Section 25.085 and fails to attend 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.

(b) Authorizes truant conduct to be prosecuted only as a civil case in a truancy court.

(c) Provides that it is an affirmative defense to an allegation of truant conduct that one or more of the absences required to be proven have been excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute truant conduct. Provides that the burden is on the child to show by a preponderance of the evidence that the absence has been or should be excused or that the absence was involuntary. Provides that a decision by the court to excuse an absence for purposes of this subsection does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

Sec. 62.04. TRUANCY COURTS; JURISDICTION. (a) Provides that the following are designated as truancy courts: in a county with a population of 1.75 million or more, the constitutional county court; justice courts; and municipal courts.

(b) Provides that a truancy court has exclusive original jurisdiction over cases involving allegations of truant conduct.

(c) Authorizes a municipality to enter into an agreement with a contiguous municipality or a municipality with boundaries that are within one-half mile of the municipality seeking to enter into the agreement to establish concurrent jurisdiction of the municipal courts in the municipalities and provide original jurisdiction to a municipal court in which a truancy case is brought as if the municipal court were located in the municipality in which the case arose.

(d) Provides that a truancy court retains jurisdiction over a person, without regard to the age of the person, who was referred to the court under Section 63.01 for engaging in truant conduct before the person's 18th birthday, until final disposition of the case.

Sec. 62.05. COURT SESSIONS. Provides that a truancy court is considered to be in session at all times.

Sec. 62.06. VENUE. Provides that venue for a proceeding under this subtitle is the county in which the alleged truant conduct occurred.

Sec. 62.07. RIGHT TO JURY TRIAL. (a) Authorizes a child alleged to have engaged in truant conduct to demand a jury trial.

(b) Provides that the number of jurors in a case involving an allegation of truant conduct is six. Provides that the state and the child are each entitled to three peremptory challenges.

Sec. 62.08. WAIVER OF RIGHTS. Provides that a right granted to a child by this subtitle or by the constitution or laws of this state or the United States is waived in proceedings under this subtitle if the right is one that may be waived, the child and the child's parent or guardian are informed of the right, understand the right, understand the possible consequences of waiving the right, and understand that waiver of the right is not required and the child signs the waiver, the child's parent or guardian signs the waiver, and the child's attorney signs the waiver, if the child is represented by counsel.

Sec. 62.09. EFFECT OF ADJUDICATION. (a) Provides that an adjudication of a child as having engaged in truant conduct is not a conviction of crime. Provides that an order of adjudication does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment.

(b) Prohibits the adjudication of a child as having engaged in truant conduct from being used in any subsequent court proceedings, other than an appeal under this subtitle.

Sec. 62.10. BURDEN OF PROOF. Prohibits a court or jury from returning a finding that a child has engaged in truant conduct unless the state has proved the conduct beyond a reasonable doubt.

Sec. 62.11. APPLICABLE RULES OF EVIDENCE. Provides that the Texas Rules of Evidence applicable to criminal cases apply in a proceeding under this subtitle.

Sec. 62.12. APPLICABLE STATUTES REGARDING DISCOVERY. Provides that discovery in a proceeding under this subtitle is governed by Chapter 39 (Deposition and Discovery), Code of Criminal Procedure.

Sec. 62.13. PROCEDURAL RULES. Authorizes the supreme court to promulgate rules of procedure applicable to proceedings under this subtitle.

Sec. 62.14. INTERPRETERS. (a) Provides that when on the motion for appointment of an interpreter by a party or on the motion of the court, in any proceeding under this subtitle, the court determines that the child, the child's parent or guardian, or a witness does not understand and speak English, an interpreter must be sworn to interpret for the person. Provides that Articles 38.30(a), (b), and (c) (relating to procedures for the provision of an interpreter to a person standing trial), Code of Criminal Procedure, apply in a proceeding under this subtitle. Authorizes a qualified telephone interpreter to be sworn to provide interpretation services if an interpreter is not available to appear in person before the court.

(b) Requires the court to, in any proceeding under this subtitle, if a party notifies the court that the child, the child's parent or guardian, or a witness is deaf, appoint a qualified interpreter to interpret the proceedings in any language, including sign language, that the deaf person can understand. Provides that Articles 38.31(d), (e), (f), and (g) (relating to procedures for the provision of an interpreter to a deaf person standing trial), Code of Criminal Procedure, apply in a proceeding under this subtitle.

Sec. 62.15. SIGNATURES. Provides that any requirement under this subtitle that a document be signed or that a document contain a person's signature, including the signature of a judge or a clerk of the court, is satisfied if the document contains the signature of the person as captured on an electronic device or as a digital signature.

Sec. 62.16. PUBLIC ACCESS TO COURT HEARINGS. (a) Requires a truancy court to, except as provided by Subsection (b), open a hearing under this subtitle to the public unless the court, for good cause shown, determines that the public should be excluded.

(b) Authorizes the court to prohibit a person from personally attending a hearing if the person is expected to testify at the hearing and the court determines that the person's testimony would be materially affected if the person hears other testimony at the hearing.

Sec. 62.17. RECORDING OF PROCEEDINGS. (a) Prohibits the proceedings in a truancy court that is not a court of record from being recorded.

(b) Requires that the proceedings in a truancy court that is a court of record be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.

Sec. 62.18. JUVENILE CASE MANAGERS. Authorizes a truancy court to employ a juvenile case manager in accordance with Article 45.056 (Juvenile Case Managers), Code of Criminal Procedure, to provide services to children who have been referred to the truancy court or who are in jeopardy of being referred to the truancy court.

CHAPTER 63. INITIAL PROCEDURES

Sec. 63.01. INITIAL REFERRAL TO TRUANCY COURT. Requires the court to, when a truancy court receives a referral under Section 25.0915 (Truancy Prevention Measures; Referral and Filing Requirement) and the court is not required to dismiss the referral under that section, forward the referral to a truant conduct prosecutor who serves the court.

Sec. 63.02. TRUANT CONDUCT PROSECUTOR. Authorizes a truant conduct prosecutor to be any attorney who represents the state in civil or criminal matters in a justice or municipal court or a constitutional county court that is designated as a truancy court.

Sec. 63.03. REVIEW BY PROSECUTOR. (a) Requires the truant conduct prosecutor to promptly review the facts described in a referral received under Section 63.01.

(b) Authorizes the prosecutor to, in the prosecutor's discretion, determine whether to file a petition with the truancy court requesting an adjudication of the child for truant conduct. Requires the prosecutor to, if the prosecutor decides not to file a petition requesting an adjudication, inform the truancy court and the school district of the decision.

(c) Prohibits a prosecutor from requesting an adjudication for truant conduct if the referral was not made in compliance with Section 25.0915.

Sec. 63.04. STATE's PETITION. (a) Provides that a petition for an adjudication of a child for truant conduct initiates an action of the state against a child who has allegedly engaged in truant conduct.

(b) Requires the proceedings to be styled "In the matter of _____, Child," identifying the child by the child's initials only.

(c) Authorizes the petition to be on information and belief.

(d) Requires that the petition state:

(1) with reasonable particularity the time, place, and manner of the acts alleged to constitute truant conduct;

(2) the name, age, and residence address, if known, of the child who is the subject of the petition;

(3) the names and residence addresses, if known, of the parent, guardian, or custodian of the child and of the child's spouse, if any; and

(4) if the child's parent, guardian, or custodian does not reside or cannot be found in the state, or if their places of residence are unknown, the name and residence address of any known adult relative residing in the county or, if there is none, the name and residence address of the known adult relative residing nearest to the location of the court.

(e) Prohibits filing fees from being charged for the filing of the state's petition.

Sec. 63.05. LIMITATIONS PERIOD. Prohibits a petition being filed after the 30th day after the date of the last absence giving rise to the act of truant conduct.

Sec. 63.06. HEARING DATE. (a) Requires the truancy court to, after the petition has been filed, set a date and time for an adjudication hearing.

(b) Prohibits the hearing from being held on or before the 10th day after the date the petition is filed.

Sec. 63.07. SUMMONS. (a) Requires the truancy court, after setting the date and time of an adjudication hearing, to direct the issuance of a summons to the child named in the petition; the child's parent, guardian, or custodian, the child's guardian ad litem, if any; and any other person who appears to the court to be a proper or necessary party to the proceeding.

(b) Requires that the summons require the persons served to appear before the court at the place, date, and time of the adjudication hearing to answer the allegations of the petition. Requires that a copy of the petition accompany the summons. Authorizes the truancy court, if a person, other than the child, required to appear under this section fails to attend a hearing, to proceed with the hearing.

(c) Authorizes the truancy court to endorse on the summons an order directing the person having the physical custody or control of the child to bring the child to the hearing.

(d) Authorizes a party, other than the child, to waive service of summons by written stipulation or by voluntary appearance at the hearing.

Sec. 63.08. SERVICE OF SUMMONS. (a) Requires that, if a person to be served with a summons is in this state and can be found, the summons be served on the person personally at least two days before the date of the adjudication hearing. Provides that, if the person cannot be found, but the person's address in this state is known or can with reasonable diligence be ascertained, the summons may be served by mailing a copy by registered or certified mail, return receipt requested, at least five days before the date of the hearing. Provides that, if the person is outside this state but can be found or the person's address is known, or the person's whereabouts or address can with reasonable diligence be ascertained, service of the summons may be made by delivering a copy personally or mailing a copy by registered or certified mail, return receipt requested, not later than the fifth day before the date of the hearing.

(b) Provides that service of the summons may be made by any suitable person under the direction of the court.

Sec. 63.09. REPRESENTATION BY ATTORNEY. Authorizes a child to be represented by an attorney in a case under this subtitle. Provides that representation by an attorney is not required.

Sec. 63.10. CHILD's ANSWER. Provides that after the petition has been filed, the child may answer, orally or in writing, the petition at or before the commencement of the hearing. Provides that if the child does not answer, a general denial of the alleged truant conduct is assumed.

Sec. 63.11. GUARDIAN AD LITEM. (a) Authorizes the court to appoint a guardian ad litem to protect the interests of the child in the proceedings, if a child appears before the truancy court without a parent or guardian, or it appears to the court that the child's parent or guardian is incapable or unwilling to make decisions in the best interest of the child with respect to proceedings under this subtitle.

(b) Authorizes an attorney for a child to also be the child's guardian ad litem. Prohibits a law enforcement officer, probation officer, or other employee of the truancy court from being appointed as a guardian ad litem.

(c) Authorizes the court to order a child's parent or other person responsible to support the child to reimburse the county or municipality for the cost of the guardian ad litem. Authorizes the court to issue the order only after determining that the parent or other responsible person has sufficient financial resources to offset the cost of the child's guardian ad litem wholly or partly.

Sec. 63.12. ATTENDANCE AT HEARING. (a) Requires the child to be personally present at the adjudication hearing. Prohibits the truancy court from proceeding with the adjudication hearing in the absence of the child.

(b) Provides that each parent or guardian of a child and any court-appointed guardian ad litem of a child is required to attend the adjudication hearing.

(c) Provides that subsection (b) does not apply to a person for whom, for good cause shown, the court excuses attendance, a person who is not a resident of this state, or a parent of a child for whom a managing conservator has been appointed and the parent is not a conservator of the child.

Sec. 63.13. RIGHT TO REEMPLOYMENT. (a) Prohibits an employer from terminating the employment of a permanent employee because the employee is required under Section 63.12(b) to attend a hearing.

(b) Provides that notwithstanding any other law, an employee whose employment is terminated in violation of this section is entitled to return to the same employment that the employee held when notified of the hearing if the employee, as soon as practical after the hearing, gives the employer actual notice that the employee intends to return.

(c) Provides that a person who is injured because of a violation of this section is entitled to reinstatement to the person's former position, damages not to exceed an amount equal to six times the amount of monthly compensation received by the person on the date of the hearing, and reasonable attorney's fees in an amount approved by the court.

(d) Provides that it is a defense to an action brought under this section that the employer's circumstances changed while the employee attended the hearing and caused reemployment to be impossible or unreasonable. Requires an employer, to establish a defense under this subsection, to prove that the termination of employment was because of circumstances other than the employee's attendance at the hearing.

Sec. 63.14. SUBPOENA OF WITNESS. Authorizes a witness to be subpoenaed in accordance with the procedures for the subpoena of a witness under the Code of Criminal Procedure.

Sec. 63.15. CHILD ALLEGED TO BE MENTALLY ILL. (a) Authorizes a party to make a motion requesting that a petition alleging a child to have engaged in truant conduct be dismissed because the child has a mental illness, as defined by Section 571.003 (Definitions), Health and Safety Code. Requires the truancy court, in response to the motion, to temporarily stay the proceedings to determine whether probable cause exists to believe the child has a mental illness. Authorizes the court, in making a determination, to:

(1) consider the motion, supporting documents, professional statements of counsel, and witness testimony; and

(2) observe the child.

(b) Requires the court to dismiss the petition if the court determines that probable cause exists to believe that the child has a mental illness. Requires the court to dissolve the stay and continue with the truancy court proceedings if the court determines that evidence does not exist to support a finding that the child has a mental illness.

CHAPTER 64. ADJUDICATION HEARING AND REMEDIES

Sec. 64.01. ADJUDICATION HEARING; JUDGMENT. (a) Authorizes a child to be found to have engaged in truant conduct only after an adjudication hearing conducted in accordance with the provisions of this subtitle.

(b) Requires that, at the beginning of the adjudication hearing, the judge of the truancy court explain to the child and the child's parent, guardian, or guardian ad litem the allegations made against the child, the nature and possible consequences of the proceedings, the child's privilege against self-incrimination, the child's right to trial and to confrontation of witnesses, the child's right to representation by an attorney if the child is not already represented, and the child's right to a jury trial.

(c) Provides that trial is by jury unless jury is waived in accordance with Section 62.08. Requires jury verdicts under this subtitle to be unanimous.

(d) Provides that only material, relevant, and competent evidence in accordance with the Texas Rules of Evidence applicable to criminal cases and Chapter 38 (Evidence in Criminal Actions), Code of Criminal Procedure, may be considered in the adjudication hearing.

(e) Provides that a child alleged to have engaged in truant conduct need not be a witness against nor otherwise incriminate himself or herself. Prohibits an extrajudicial statement that was obtained without fulfilling the requirements of this subtitle or of the constitution of this state or the United States from being used in an adjudication hearing. Provides that a statement made by the child out of court is insufficient to support a finding of truant conduct unless it is corroborated wholly or partly by other evidence.

(f) Requires the court or jury, at the conclusion of the adjudication hearing, to find whether the child has engaged in truant conduct. Requires that the finding be based on competent evidence admitted at the hearing. Requires the child to be presumed to have not engaged in truant conduct and no finding that a child has engaged in truant conduct may be returned unless the state has proved the conduct beyond a reasonable doubt. Provides that in all jury cases the jury will be instructed that the burden is on the state to prove that a child has engaged in truant conduct beyond a reasonable doubt.

(g) Requires the court to dismiss the case with prejudice if the court or jury finds that the child did not engage in truant conduct.

(h) Requires the court to proceed to issue a judgment finding the child has engaged in truant conduct and order the remedies the court finds appropriate under Section 64.03, if the court or jury finds that the child did engage in truant conduct. Provides that the jury is not involved in ordering remedies for a child who has been adjudicated as having engaged in truant conduct.

Sec. 64.02. REMEDIAL ACTIONS. (a) Requires the truancy court to determine and order appropriate remedial actions in regard to a child who has been found to have engaged in truant conduct.

(b) Requires the truancy court to orally pronounce the court's remedial actions in the child's presence and enter those actions in a written order.

(c) Requires the court, after pronouncing the court's remedial actions, to advise the child and the child's parent, guardian, or guardian ad litem of the child's right to appeal, as detailed in Chapter 65, and the procedures for the sealing of the child's records under Section 66.01.

Sec. 64.03. REMEDIAL ORDER. (a) Authorizes a truancy court to enter a remedial order requiring a child who has been found to have engaged in truant conduct to:

- (1) attend school without unexcused absences;
 - (2) attend a preparatory class for the high school equivalency examination administered under Section 7.111 if the court determines that the individual is unlikely to do well in a formal classroom environment due to the individual's age;
 - (3) if the child is at least 16 years of age, take the high school equivalency examination administered under Section 7.111;
 - (4) attend a special program that the court determines to be in the best interest of the child, including an alcohol and drug abuse program, a rehabilitation program, a counseling program, including a self-improvement program, a program that provides training in self-esteem and leadership, a work and job skills training program, a program that provides training in parenting, including parental responsibility, a program that provides training in manners, a program that provides training in violence avoidance, a program that provides sensitivity, and a program that provides training in advocacy;
 - (5) complete not more than 50 hours of community service on a project acceptable to the court; and
 - (6) participate for a specified number of hours in a tutorial program covering the academic subjects in which the child is enrolled that are provided by the school the child attends.
- (b) Prohibits a truancy court from ordering a child who has been found to have engaged in truant conduct to attend a juvenile justice alternative education program.
- (c) Authorizes a truancy court to, in addition to any other order authorized by this section, order the Department of Public Safety to suspend the driver's license or permit of a child who has been found to have engaged in truant conduct. Authorizes the court, if the child does not have a driver's license or permit, to order the Department of Public Safety to deny the issuance of a license or permit to the child. Provides that the period of the license or permit suspension or the order that the issuance of a license or permit be denied may not extend beyond the maximum time period that a remedial order is effective as provided by Section 64.04.

Sec. 64.04. MAXIMUM TIME REMEDIAL ORDER IS EFFECTIVE. Provides that a truancy court's remedial order under Section 64.03 is effective until the later of the date specified by the court in the order, which may not be later than the 180th day after the date the order is entered, or the last day of the school year in which the order was entered.

Sec. 64.05. ORDERS AFFECTING PARENTS AND OTHERS. (a) Authorizes the truancy court to, if a child has been found to have engaged in truant conduct:

- (1) order the child and the child's parent to attend a class for students at risk of dropping out of school that is designed for both the child and the child's parent;
- (2) order any person found by the court to have, by a wilful act or omission, contributed to, caused, or encouraged the child's truant conduct to do any act that the court determines to be reasonable and necessary for the welfare of the child or to refrain from doing any act that the court determines to be injurious to the child's welfare;

- (3) enjoin all contact between the child and a person who is found to be a contributing cause of the child's truant conduct;
- (4) after notice to, and a hearing with, all persons affected, order any person living in the same household with the child to participate in social or psychological counseling to assist in the child's rehabilitation;
- (5) order the child's parent or other person responsible for the child's support to pay all or part of the reasonable costs of treatment programs in which the child is ordered to participate if the court finds the child's parent or person responsible for the child's support is able to pay the costs;
- (6) order the child's parent to attend a program for parents of students with unexcused absences that provides instruction designed to assist those parents in identifying problems that contribute to the child's unexcused absences and in developing strategies for resolving those problems; and
- (7) order the child's parent to perform not more than 50 hours of community service with the child.

- (b) Provides that a person subject to an order proposed under Subsection (a) is entitled to a hearing before the order is entered by the court.
- (c) Provides that on a finding by the court that a child's parents have made a reasonable good faith effort to prevent the child from engaging in truant conduct and that, despite the parents' efforts, the child continues to engage in truant conduct, the court shall waive any requirement for community service that may be imposed on a parent under this section.

Sec. 64.06. LIABILITY FOR CLAIMS ARISING FROM COMMUNITY SERVICE. (a) Authorizes a municipality or county that establishes a program to assist children and their parents in rendering community service under this chapter to purchase an insurance policy protecting the municipality or county against a claim brought by a person other than the child or the child's parent for a cause of action that arises from an act of the child or parent while rendering the community service. Provides that the municipality or county is not liable for the claim to the extent that damages are recoverable under a contract of insurance or under a plan of self-insurance authorized by statute.

- (b) Prohibits the liability of the municipality or county for a claim that arises from an action of the child or the child's parent while rendering community service from exceeding \$100,000 to a single person and \$300,000 for a single occurrence in the case of personal injury or death, and \$10,000 for a single occurrence of property damage. Prohibits liability from extending to punitive or exemplary damages.
- (c) Provides that this section does not waive a defense, immunity, or jurisdictional bar available to the municipality or county or its officers or employees, nor shall this section be construed to waive, repeal, or modify any provision of Chapter 101, Civil Practice and Remedies Code.

Sec. 64.07. COURT COST. (a) Requires that if a child is found to have engaged in truant conduct, the truancy court, after giving the child, parent, or other person responsible for the child's support a reasonable opportunity to be heard, order the child, parent, or other person, if financially able to do so, to pay a court cost of \$50 to the clerk of the court.

- (b) Provides that the court's order to pay the \$50 court cost is not effective unless the order is reduced to writing and signed by the judge. Authorizes the written order to pay the court cost to be part of the court's order detailing the remedial actions in the case.

(c) Requires the clerk of the court to keep a record of the court costs collected under this section and forward the funds to the county treasurer, municipal treasurer, or person fulfilling the role of a county treasurer or municipal treasurer, as appropriate.

(d) Requires that the court costs collected under this section be deposited in a special account that can be used only to offset the cost of the operations of the truancy court.

Sec. 64.08. HEARING TO MODIFY REMEDY. (a) Authorizes a truancy court to hold a hearing to modify any remedy imposed by the court. Authorizes a remedy to only be modified during the period the order is effective under Section 64.04.

(b) Provides that there is no right to a jury at a hearing under this section.

(c) Requires that a hearing to modify a remedy imposed by the court be held on the petition of the child and the child's parent, guardian, guardian ad litem, or attorney, the state, or the court. Requires that reasonable notice of a hearing to modify disposition be given to all parties.

(d) Authorizes the truancy court, notwithstanding any other law, in considering a motion to modify a remedy imposed by the court, to consider a written report from a school district official or employee, juvenile case manager, or professional consultant in addition to the testimony of witnesses. Requires the court to provide the attorney for the child and the prosecuting attorney with access to all written matters to be considered by the court. Authorizes the court to prohibit counsel from revealing items to the child or to the child's parent, guardian, or guardian ad litem if the disclosure would materially harm the treatment and rehabilitation of the child or would substantially decrease the likelihood of receiving information from the same or similar sources in the future.

(e) Requires the truancy court to pronounce, in the presence of the child, the court's changes to the remedy, if any. Requires the court to specifically state the new remedy and the court's reasons for modifying the remedy in a written order. Requires the court to furnish a copy of the order to the child.

Sec. 64.09. MOTION FOR NEW TRIAL. Provides that the order of a truancy court may be challenged by filing a motion for new trial. Provides that Rules 505.3(c) (Motion for New Trial) and (e) (Motion Denied as a Matter of Law), Texas Rules of Civil Procedure, apply to a motion for new trial.

CHAPTER 65. APPEAL

Sec. 65.01. RIGHT TO APPEAL. (a) Authorizes the child or the state to appeal any order of a truancy court.

(b) Requires that an appeal from a truancy court that is a court of record be to a court of appeals. Authorizes the case to be carried to the supreme court by writ of error as in civil cases generally. Provides that on appeal, the judgment of the truancy court is suspended.

(c) Requires that an appeal from a truancy court that is not a court of record be to a juvenile court. Requires that the case be tried de novo in the juvenile court. Provides that this subtitle applies to the de novo trial in the juvenile court. Provides that on appeal, the judgment of the truancy court is vacated.

(d) Authorizes a judgment of a juvenile court in a trial conducted under Subsection (c) to be appealed in the same manner as an appeal from a truancy court that is a court of record.

Sec. 65.02. GOVERNING LAW. (a) Requires that the appeal of an order of a truancy court that is a court of record is governed by the Texas Rules of Appellate Procedure.

(b) Provides that Rule 506 (Appeal), Texas Rules of Civil Procedure, applies to the appeal of an order of a truancy court that is not a court of record to a juvenile court in the same manner as the rule applies to an appeal of a judgment of a justice court to a county court.

Sec. 65.03. COUNSEL ON APPEAL. (a) Authorizes a child to be represented by counsel on appeal.

(b) Requires the attorney who represented the child before the truancy court to file a notice of appeal with the court that will hear the appeal and inform that court whether that attorney will handle the appeal if the child and the child's parent, guardian, or guardian ad litem request an appeal.

(c) Provides that an appeal serves to suspend the order of the truancy court, regardless of whether the truancy court is a court of record.

(d) Authorizes the appellate court to affirm, reverse, or modify the order of the truancy court.

Sec. 65.04. STYLE OF CASE ON APPEAL. Prohibits the child or the child's family from being identified in an appellate opinion rendered in an appeal. Requires that the appellate opinion be styled, "In the matter of _____, Child," identifying the child by the child's initials only.

Sec. 65.05. TRANSCRIPT ON APPEAL FROM COURT OF RECORD. (a) Provides that this section applies to an appeal from a truancy court that is a court of record.

(b) Authorizes an attorney retained to represent a child on appeal to request that a transcription of notes of the reporter be included in the record on appeal. Requires the attorney to obtain and pay for the transcription and furnish the transcription to the clerk in duplicate in time for inclusion in the record.

(c) Requires the truancy court, in an appeal under this section, to order the reporter to furnish a transcription without charge to the attorney if the court finds, after hearing or on an affidavit filed by the child's parent or other person responsible for support of the child, that the parent or other responsible person is unable to pay or to give security for the transcription.

(d) Provides that if a transcription has been provided without charge under Subsection (c), payment is made from the general funds of the county in which the truancy proceedings were held.

(e) Requires the court reporter to report any portion of the proceedings requested by either party or directed by the court and to report the proceedings in question and answer form unless a narrative transcript is requested.

CHAPTER 66. RECORDS

Sec. 66.01. SEALING OF RECORDS. (a) Authorizes a child who has been found to have engaged in truant conduct to apply, on or after the child's 18th birthday, to the truancy court that made the finding to seal the records relating to the allegation and finding of truant conduct held by the court, the truant conduct prosecutor, and the school district.

(b) Requires that the application include certain information set forth by this subsection or an explanation of why the information is not included.

- (c) Requires the truancy court to order that the records be sealed after determining the child complied with the remedies ordered by the court in the case.
- (d) Requires the truancy court to hold a hearing before sealing a child's records under Subsection (c) unless the child waives the right to a hearing in writing and the court and the truant conduct prosecutor consent to the waiver. Requires that reasonable notice of the hearing be given to the child who made the application and the truant conduct prosecutor.
- (e) Requires all index references to the records of the truancy court that are ordered sealed to be deleted not later than the 30th day after the date of the sealing order.
- (f) Requires a truancy court, clerk of the court, truant conduct prosecutor, or school district to reply to a request for information concerning a child's sealed truant conduct case that no record exists with respect to the child.
- (g) Authorizes inspection of the sealed records to be permitted by an order of the truancy court on the petition of the person who is the subject of the records and only by those persons named in the order.
- (h) Provides that a person whose records have been sealed under this section is not required in any proceeding or in any application for employment, information, or licensing to state that the person has been the subject of a proceeding under this subtitle. Provides that any statement that the person has never been found to have engaged in truant conduct may not be held against the person in any criminal or civil proceeding.
- (i) Authorizes the truancy court to, on the fifth anniversary of a child's 16th birthday, on the motion of the child or on the truancy court's own motion, order the destruction of the child's records that have been sealed under this section if the child has not been convicted of a felony.

Sec. 66.02. CONFIDENTIALITY OF RECORDS. Authorizes records and files created under this subtitle to be disclosed only to:

- (1) the judge of the truancy court, the truant conduct prosecutor, and the staff of the judge and prosecutor;
- (2) an attorney for the child;
- (3) a governmental agency if the disclosure is required or authorized by law;
- (4) a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;
- (5) the Texas Department of Criminal Justice and the Texas Juvenile Justice Department for the purpose of maintaining statistical records of recidivism and for diagnosis and classification; or
- (6) with leave of the truancy court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

Sec. 66.03. DESTRUCTION OF CERTAIN RECORDS. Requires a truancy court to order the destruction of the records relating to allegations of truant conduct if a prosecutor decides not to file a petition for an adjudication of truant conduct after a review of the referral under Section 63.03.

CHAPTER 67. ENFORCEMENT OF ORDERS

Sec. 67.01. CHILDREN IN CONTEMPT OF COURT. (a) Authorizes the truancy court, if a child fails to obey an order issued by the truancy court under Section 64.03(a), after providing notice and an opportunity for a hearing, to find the child in contempt of court.

(b) Authorizes the truancy court, if a truancy court finds a child in contempt of court under Subsection (a) or a child is in direct contempt of court, to:

(1) refer the child to the juvenile court in the county for delinquent conduct under Section 51.03(a)(2), Family Code, unless the child committed the contempt while 17 years of age or older; or

(2) hold the child in contempt of court and order either or both of the following:

(A) that the child pay a fine not to exceed \$100;

(B) or that the Department of Public Safety of the State of Texas (DPS) suspend the child's driver's license or permit or, if the child does not have a license or permit, order that DPS deny the issuance of a license or permit to the child until the child fully complies with the court's orders.

(c) Prohibits a truancy court from ordering the confinement of a child for the child's failure to obey an order of the court issued under Section 64.03(a).

(d) Requires a truancy court that orders the suspension or denial of a driver's license or permit under Subsection (b)(2)(B) to notify DPS on receiving proof of compliance with the orders of the court, and order DPS to revoke the suspension or denial of the license.

Sec. 67.02. PARENT OR OTHER PERSON IN CONTEMPT OF COURT. (a) Authorizes a truancy court to enforce the following orders by contempt:

(1) an order that a parent of a child, guardian of a child, or any court-appointed guardian ad litem of a child attend an adjudication hearing under Section 63.12(b);

(2) an order requiring a person other than a child to take a particular action under Section 64.05(a);

(3) an order that a child's parent, or other person responsible to support the child, reimburse the municipality or county for the cost of the guardian ad litem appointed for the child under Section 63.11(c); and

(4) an order that a parent, or person other than the child, pay the \$50 court cost under Section 64.07.

(b) Authorizes a truancy court to find a parent or person other than the child in direct contempt of the court.

(c) Provides that the penalty for a finding of contempt under Subsection (a) or (b) is a fine in an amount not to exceed \$100.

(d) Provides that in addition to the assessment of a fine under Subsection (c), direct contempt of the truancy court by a parent or person other than the child is punishable by confinement in jail for a maximum of three days, a maximum of 40 hours of community service, or both confinement and community service.

Sec. 67.03. WRIT OF ATTACHMENT. Authorizes a truancy court to issue a writ of attachment for a person who violates an order entered under Section 63.07(c). Provides that the writ of attachment is executed in the same manner as in a criminal proceeding as provided by Chapter 24 (Subpoena and Attachment), Code of Criminal Procedure.

Sec. 67.04. ENTRY OF TRUANCY COURT ORDER AGAINST PARENT OR OTHER ELIGIBLE PERSON. (a) Requires the truancy court to provide notice to a person who is the subject of a proposed truancy court order under Section 67.02, and provide a sufficient opportunity for the person to be heard regarding the proposed order.

(b) Requires that a truancy court order under Section 67.02 be in writing and a copy promptly furnished to the parent or other eligible person.

(c) Authorizes the truancy court to require the parent or other eligible person to provide suitable identification to be included in the court's file. Provides that suitable identification includes fingerprints, a driver's license number, a social security number, or similar indicia of identity.

Sec. 67.05. APPEAL. (a) Authorizes the parent or other eligible person against whom a final truancy court order has been entered under Section 67.02 to appeal as provided by law from judgments entered in civil cases.

(b) Provides that the pendency of an appeal initiated under this section does not abate or otherwise affect the proceedings in the truancy court involving the child.

Sec. 67.06. MOTION FOR ENFORCEMENT. (a) Authorizes the state to initiate enforcement of a truancy court order under Section 67.02 against a parent or person other than the child by filing a written motion. Requires that, in ordinary and concise language, the motion identify the provision of the order allegedly violated and sought to be enforced, state specifically and factually the manner of the person's alleged noncompliance, state the relief requested, and contain the signature of the party filing the motion.

(b) Requires the state to allege the particular violation by the person of the truancy court order that the state had a reasonable basis for believing the person was violating when the motion was filed.

Sec. 67.07. NOTICE AND APPEARANCE. (a) Requires the truancy court, on the filing of a motion for enforcement, to set the date, time, and place of the hearing by written notice and order the person against whom enforcement is sought to appear and respond to the motion.

(b) Requires that the notice be given by personal service or by certified mail, return receipt requested, on or before the 10th day before the date of the hearing on the motion. Requires that the notice include a copy of the motion for enforcement. Requires that personal service comply with the Code of Criminal Procedure.

(c) Requires the truancy court, if a person moves to strike or specially excepts to the motion for enforcement, to rule on the exception or motion to strike before the court hears evidence on the motion for enforcement. Requires that if an exception is sustained, the court give the movant an opportunity to replead and continue the hearing to a designated date and time without the requirement of additional service.

(d) Prohibits the truancy court from, if a person who has been personally served with notice to appear at the hearing does not appear, holding the person in contempt, but authorizes the truancy court to issue a warrant for the arrest of the person.

Sec. 67.08. CONDUCT OF ENFORCEMENT HEARING. (a) Requires the movant to prove beyond a reasonable doubt that the person against whom enforcement is sought engaged in conduct constituting contempt of a reasonable and lawful court order as alleged in the motion for enforcement.

(b) Provides that the person against whom enforcement is sought has a privilege not to be called as a witness or otherwise to incriminate himself or herself.

(c) Requires the truancy court to conduct the enforcement hearing without a jury.

(d) Requires the truancy court to include in the court's judgment findings for each violation alleged in the motion for enforcement; and the punishment, if any, to be imposed.

(e) Authorizes a person to, if the person against whom enforcement is sought was not represented by counsel during any previous court proceeding involving a motion for enforcement, through counsel, raise any defense or affirmative defense to the proceeding that could have been asserted in the previous court proceeding that was not asserted because the person was not represented by counsel.

(f) Provides that it is an affirmative defense to enforcement of a truancy court order under Section 67.02 that the court did not provide the parent or other eligible person with due process of law in the proceeding in which the court entered the order.

SECTION 18. Amends Section 51.02(15), Family Code, to redefine "status offender."

SECTION 19. Amends Sections 51.03(a), (b), (e), and (f), Family Code, as follows:

(a) Provides that delinquent conduct is:

(1) Makes no change to this subdivision;

(2) conduct that violates a lawful order of a court under circumstances that would constitute contempt of that court in a justice or municipal court, a county court for conduct punishable only by a fine, or a truancy court;

(3)-(4) Makes no change to these subdivisions;

(b) Provides that conduct indicating a need for supervision is:

(1) Makes no change to this subdivision;

(2) Deletes existing Subdivision (2) and redesignates existing Subdivision (3) as Subdivision (2).

(3)-(8) Renumbers remaining subdivisions appropriately.

Deletes text of existing Subdivision (2) providing that conduct indicating a need for supervision includes the absence of a child 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 from school.

(e) Provides that for the purposes of Subsection (b)(2), rather than (b)(3), "child" does not include a person who is married, divorced, or widowed.

(f) Provides that conduct described under Subsection (b)(1) does not constitute conduct indicating a need for supervision unless the child has been referred to the juvenile court under Section 51.08(b) (relating to criminal courts waiving jurisdiction and referring a child to juvenile court).

SECTION 20. Amends Section 51.13(e), Family Code, to provide that a finding that a child engaged in conduct indicating a need for supervision as described by Section 51.03(b)(7), rather than 51.03(b)(8), is a conviction only for the purposes of Sections 43.261(c) and (d) (relating to the classification of crimes involving electronic transmission of certain visual material depicting a minor), Penal Code.

SECTION 21. Amends Section 54.0404(a), Family Code, to make a conforming change.

SECTION 22. Amends Section 54.05(b), Family Code, to provide that except for a commitment under Section 54.04011 (Trafficked Persons Program), rather than Section 54.04011 and Section 54.0402 (Dispositional Order for Failure to Attend School), or a placement on determinate sentence probation under Section 54.04(q) (Relating to court prescribed probation in resulting from adjudication in the Texas Juvenile Justice Department) all dispositions automatically terminate when the child reaches the child's 18th birthday.

SECTION 23. Amends Section 58.0022, Family Code, to change a reference to Section 51.03(b)(3) to 51.03(b)(2).

SECTION 24. Amends Section 58.003(c-3), Family Code, to change a reference to Section 51.03(b)(7) to 51.03(b)(6).

SECTION 25. Amends Section 58.106(a), Family Code, as follows:

(a) Provides that, except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the department and prohibits that information from being disseminated by the department except:

- (1)-(3) Makes no change to these subdivisions;
- (4) to the Texas Juvenile Justice Department, rather than the Texas Youth Commission and the Texas Juvenile Probation Commission, for analytical purposes;
- (5) to the office of independent ombudsman of the Texas Juvenile Justice Department, rather than the Texas Youth Commission; and
- (6) to a county, justice, or municipal court exercising jurisdiction over a juvenile, rather than municipal court exercising jurisdiction over a juvenile. Deletes text including a court exercising jurisdiction over a juvenile under Section 54.021 (County, Justice, or Municipal Court: Truancy) in the list of exceptions.

SECTION 26. Amends Section 59.003(a), Family Code, as follows:

(a) Authorizes the probation department or prosecuting attorney or the juvenile court, subject to Subsection (e) and after a child's first commission of delinquent conduct or conduct indicating a need for supervision in a disposition hearing under Section 54.04 (Dispositional Hearing) or a modification hearing under Section 54.05 (Hearing to Modify Disposition), to assign a child one of the following sanction levels according to the child's conduct. Sets forth sanction levels. Changes references to Section 51.03(b)(4) or (5) to Section 51.03(b)(3) or (4).

SECTION 27. Amends Section 61.002(a), Family Code, as follows:

(a) Provides that this chapter applies, except as provided by Subsection (b), to a proceeding to enter a juvenile court order:

- (1)-(8) Makes no change to these subdivisions.
- (9) requiring a parent or other eligible person to pay reasonable attorney's fees for representing the child under Section 51.10(e) (authorizing the court to enforce

orders under Subsection (d) by proceedings under Section 54.07 or by appointing counsel and ordering the parent or other person responsible for support of the child to pay a reasonable attorney's fee set by the court);

Deletes existing text requiring a parent or guardian of a child found to be truant to participate in an available program addressing truancy under Section 54.041(f).

Renumbers the remaining subdivisions appropriately.

SECTION 28. Amends Section 26.045(d), Government Code, as follows:

(d) Provides that a county court in a county with a population of 1.75 million or more has original jurisdiction over cases alleging a violation of Section 25.093 (Parent Contributing to Nonattendance), Education Code, rather than Section 25.093 or 25.094, Education Code, or alleging truant conduct under Section 62.03(a), Education Code.

SECTION 29. Amends Section 29.003 (i), Government Code, to change a reference to Section 25.094, Education Code to Section 62.03 (a), Education Code.

SECTION 30. Amends Section 54.1172 (a), Government Code, as follows:

(a) Authorizes the county judge to appoint one or more part-time or full-time magistrates to hear a matter alleging a violation of Section 25.093, Education Code, rather than 25.094, Education Code, or alleging truant conduct under Section 62.03 (a), Education Code.

SECTION 31. Amends Section 54.1952 (a), Government Code, to make a conforming change.

SECTION 32. Amends Section 54.1955, Government Code, as follows:

Sec. 54.1955. POWERS. (a) Authorizes a magistrate appointed under this subchapter, except as limited by an order of the county judge, to:

(1)-(7) Makes no change to these subdivisions;

(8) accept a plea of guilty or nolo contendere in a case alleging a violation of Section 25.093, Education Code, rather than Section 25.093 or 25.094, Education Code, and assess a fine or court costs or order community service in satisfaction of a fine or costs in accordance with Article 45.049 (Community Service in Satisfaction of Fine or Costs), Code of Criminal Procedure;

(9) for a violation of Section 25.093, Education Code, enter an order suspending a sentence or deferring a final disposition that includes at least one of the requirements listed in Article 45.051 (Suspension of Sentence and Deferral of Final Disposition), Code of Criminal Procedure;

(10) for an uncontested adjudication of truant conduct under Section 62.03, Education Code, accept a plea to the petition or a stipulation of evidence, and take any other action authorized under Subtitle J, Title 2, Education Code; and

(11) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the referral order, including the entry of an order that includes at least one of the remedial options, rather than requirements, Section 64.03, Education Code, rather than Article 45.054, Code of Criminal Procedure. Creates this subdivision from existing text.

Deletes existing text authorizing a magistrate, that if the magistrate finds that a child as defined by Article 45.058, Code of Criminal Procedure, has violated an order under Article 45.054, Code of Criminal Procedure, to proceed as authorized by Article 45.050, Code of Criminal Procedure. Makes a nonsubstantive change.

(b) Prohibits a magistrate from ruling on an issue but authorizes the magistrate to make findings, conclusions, and recommendations on the issue with respect to an issue of law or fact the ruling on which could result in the dismissal of a prosecution under Section 25.093, Education Code, rather than Section 25.093 or 25.094, Education Code, or a case of truant conduct under Section 63.03, Education Code.

SECTION 33. Amends Section 54.1956, Government Code, as follows:

Sec. 54.1956. New heading: NOT GUILTY PLEA ENTERED OR DENIAL OF ALLEGED CONDUCT. (a) Creates this subsection from existing text. Requires the magistrate, on entry of a not guilty plea for a violation of Section 25.093, Education Code, to refer the case back to the referring court for all further pretrial proceedings and a full trial on the merits before the court or a jury.

(b) Requires the magistrate to refer the case to the appropriate truancy court for adjudication on denial by a child of truant conduct, as defined by Section 62.03(a), Education Code.

SECTION 34. Amends Section 71.0352, Government Code, as follows:

Sec. 71.0352. New heading: JUVENILE DATA: JUSTICE, MUNICIPAL, AND TRUANCY COURTS. Provides that, as a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System:

(1) requires a justice court, municipal court, or truancy court to report the number of cases filed for, rather than report the number of cases filed for the following offenses:

(A) truant conduct under Section 62.03(a). Education Code, rather than failure to attend school under Section 25.094, Education Code;

(B) the offense of parent contributing to nonattendance under Section 25.093, Education Code; and

(C) a violation of a local daytime curfew ordinance adopted under Section 341.905 (Juvenile Curfew in General-Law Municipality) or 351.903 (County Juvenile Curfew), Local Government Code; and

(2) requires the justice court, municipal court or truancy court, to report the number of incidents in cases in which a child fails to obey an order of a justice court, municipal court, or truancy court, under circumstances that would constitute contempt of court, in which the child is:

(A) referred to the appropriate juvenile court for delinquent conduct as provided by Article 45.050(c)(1), Code of Criminal Procedure, or Section 67.01 (b) (1), Education Code rather than Article 45.050 (c) (1), Code of Criminal Procedure or Section 51.03(a)(2), Family Code; or

(B) held in contempt, fined, or denied driving privileges as provided by Article 45.050(c)(2), Code of Criminal Procedure, or Section 67.01(b)(2), Education Code.

Makes nonsubstantive changes.

SECTION 35. Amends Section 102.021, Government Code, as follows:

Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL PROCEDURE. Requires a person convicted of an offense to pay the following under the Code of Criminal Procedure, in addition to all other costs:

(1)-(7) Makes no change to these subdivisions;

(8) court costs on an offense of parent contributing to student nonattendance, rather than truancy or contributing to truancy Art. 102.014 (Court Costs for Child Safety Fund in Municipalities), Code of Criminal Procedure... \$20;

(9)-(18) Makes no change to these subdivisions.

SECTION 36. Amends Section 103.021, Government Code, as follows:

Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: CODE OF CRIMINAL PROCEDURE. Requires an accused or defendant, or a party to a civil suit, as applicable, to pay the following fees and costs under the Code of Criminal Procedure if ordered by the court or otherwise required:

(1)- (20-a) Makes no change to these subdivisions;

(21)-(25) Makes no change to these subdivisions.

Deletes existing Subdivision (20-b) providing that a fee to defray the cost of notifying state agencies of orders of expunction (Art. 45.055, Code of Criminal Procedure) . . . \$30 per application;

SECTION 37. Amends Subchapter B, Chapter 103, Government Code, by adding Section 103.035, as follows:

Sec. 103.035. ADDITIONAL COSTS IN TRUANCY CASES: EDUCATION CODE. Requires a party to a truancy case in a truancy court to pay court costs of \$50 under Section 64.07, Education Code, if ordered by the truancy court.

SECTION 38. Repealers:

(1) Articles 45.054 (Failure to Attend School Proceedings) and 45.055 (Expunction of Conviction and Records in Failure to Attend School Cases), Code of Criminal Procedure;

(2) Section 25.094 (Failure to Attend School), Education Code; and

(3) Sections 51.03(d) (providing that it is an affirmative defense to an allegation of conduct under Subsection (b)(2) that one or more of the absences required to be proven under that subsection have been excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute conduct under Subsection (b)(2)), Family Code;

(3) Section 51.03(e-1) (defining, notwithstanding any other law, for purposes of conduct described by Subsection (b)(2), "child" as a person who is 10 years of age or older, alleged or found to have engaged in the conduct as a result of acts committed before becoming 18 years of age, and required to attend school under Section 25.085 (Compulsory School Attendance)), Family Code;

Section 51.03(g) (providing that in a county with a population of less than 100,000, conduct described by Subsection (b)(1)(A) that violates Section 25.094, Education Code, is conduct indicating a need for supervision), Family Code;

Section 51.04(h) (providing that in a county with a population of less than 100,000, the juvenile court has concurrent jurisdiction with the justice and municipal courts over conduct engaged in by a child that violates Section 25.094, Education Code), Family Code;

Section 51.08(e) (prohibiting a juvenile court from refusing to accept the transfer of a case brought under Section 25.094, Education Code, for a child described by Subsection (b)(1) if a prosecuting attorney for the court determines under Section 53.012 (Review by Prosecutor) that the case is legally sufficient under Section 53.01 (Preliminary Investigation and Determinations; Notice to Parents for adjudication in juvenile court), Family Code;

Section 54.021 (County, Justice, or Municipal Court: Truancy), Family Code;

Section 54.0402 (Dispositional Order for Failure to Attend School),

Section 54.041(f) (providing that this subsection expired), Family Code;

Section 54.041(g) (requiring the court to waive any requirements for restitution that may be imposed on the parents under this section under certain requirements), Family Code; and

Section 54.05(a-1) (authorizing a disposition regarding conduct under Section 51.03(b)(2) to be modified by the juvenile court as provided by this section until the expiration of the period described by Section 54.0402), Family Code.

SECTION 39. Makes application of this Act prospective.

SECTION 40. Provides that to the extent of any conflict, this Act prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 41. Effective date: upon passage or September 1, 2015.