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AN ACT

relating to educational, juvenile justice, and criminal justice responses to truancy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 25.094, Education Code, is amended to read as follows:

(a) An individual commits an offense if the individual:

(1) is 12 years of age or older and younger than 18 years of age;

(2) is required to attend school under Section 25.085;

and

(3) ~~[(2)]~~ 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.

SECTION 2. Section 51.03, Family Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) Notwithstanding any other law, for purposes of conduct described by Subsection (b)(2), "child" means a person who is:

(1) 10 years of age or older;

(2) alleged or found to have engaged in the conduct as a result of acts committed before becoming 18 years of age; and

(3) required to attend school under Section 25.085, Education Code.

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1 SECTION 3. Subsections (a) and (b), Section 54.021, Family
2 Code, are amended to read as follows:

3 (a) The juvenile court may waive its exclusive original
4 jurisdiction and transfer a child to the constitutional county
5 court, if the county has a population of two million or more, or to
6 an appropriate justice or municipal court, with the permission of
7 the county, justice, or municipal court, for disposition in the
8 manner provided by Subsection (b) if the child is 12 years of age or
9 older and is alleged to have engaged in conduct described in Section
10 51.03(b)(2). A waiver of jurisdiction under this subsection may be
11 for an individual case or for all cases in which a child is alleged
12 to have engaged in conduct described in Section 51.03(b)(2). The
13 waiver of a juvenile court's exclusive original jurisdiction for
14 all cases in which a child is alleged to have engaged in conduct
15 described in Section 51.03(b)(2) is effective for a period of one
16 year.

17 (b) A county, justice, or municipal court may exercise
18 jurisdiction over a person alleged to have engaged in conduct
19 indicating a need for supervision by engaging in conduct described
20 in Section 51.03(b)(2) in a case where:

- 21 (1) the person is 12 years of age or older;
- 22 (2) the juvenile court has waived its original
23 jurisdiction under this section; and
- 24 (3) [~~2~~] a complaint is filed by the appropriate
25 authority in the county, justice, or municipal court charging an
26 offense under Section 25.094, Education Code.

27 SECTION 4. Chapter 54, Family Code, is amended by adding

1 Section 54.0402 to read as follows:

2 Sec. 54.0402. DISPOSITIONAL ORDER FOR FAILURE TO ATTEND
3 SCHOOL. A dispositional order regarding conduct under Section
4 51.03(b)(2) is effective for the period specified by the court in
5 the order but may not extend beyond the 180th day after the date of
6 the order or beyond the end of the school year in which the order was
7 entered, whichever period is longer.

8 SECTION 5. Section 54.05, Family Code, is amended by
9 amending Subsections (a) and (b) and adding Subsection (a-1) to
10 read as follows:

11 (a) Except as provided by Subsection (a-1), any [~~Any~~]
12 disposition, except a commitment to the Texas Youth Commission, may
13 be modified by the juvenile court as provided in this section until:

- 14 (1) the child reaches his 18th birthday; or
- 15 (2) the child is earlier discharged by the court or
- 16 operation of law.

17 (a-1) A disposition regarding conduct under Section
18 51.03(b)(2) may be modified by the juvenile court as provided by
19 this section until the expiration of the period described by
20 Section 54.0402.

21 (b) Except for a commitment to the Texas Youth Commission or
22 a disposition under Section 54.0402, all dispositions
23 automatically terminate when the child reaches his 18th birthday.

24 SECTION 6. Article 45.054, Code of Criminal Procedure, is
25 amended by adding Subsections (i) and (j) to read as follows:

26 (i) A county, justice, or municipal court shall dismiss the
27 complaint against an individual alleging that the individual

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1 committed an offense under Section 25.094, Education Code, if:

2 (1) the court finds that the individual has
3 successfully complied with the conditions imposed on the individual
4 by the court under this article; or

5 (2) the individual presents to the court proof that
6 the individual has obtained a high school diploma or a high school
7 equivalency certificate.

8 (j) A county, justice, or municipal court may waive or
9 reduce a fee or court cost imposed under this article if the court
10 finds that payment of the fee or court cost would cause financial
11 hardship.

12 SECTION 7. Article 45.055, Code of Criminal Procedure, is
13 amended by amending Subsection (a) and adding Subsection (e) to
14 read as follows:

15 (a) Except as provided by Subsection (e), an [An] individual
16 convicted of not more than one violation of Section 25.094,
17 Education Code, may, on or after the individual's 18th birthday,
18 apply to the court in which the individual was convicted to have the
19 conviction and records relating to the conviction expunged.

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

24 (1) the court finds that the individual has
25 successfully complied with the conditions imposed on the individual
26 by the court under Article 45.054; or

27 (2) before the individual's 21st birthday, the

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1 individual presents to the court proof that the individual has
2 obtained a high school diploma or a high school equivalency
3 certificate.

4 SECTION 8. Subsections (b) and (c), Article 102.0174, Code
5 of Criminal Procedure, are amended to read as follows:

6 (b) The governing body of a municipality by ordinance may
7 create a juvenile case manager fund and may require a defendant
8 convicted of a fine-only misdemeanor offense in a municipal court
9 to pay a juvenile case manager fee not to exceed \$5 as a cost of
10 court if the municipality employs a juvenile case manager. A
11 municipality that does not employ a juvenile case manager may not
12 collect a fee under this subsection.

13 (c) The commissioners court of a county by order may create
14 a juvenile case manager fund and may require a defendant convicted
15 of a fine-only misdemeanor offense in a justice court, county
16 court, or county court at law to pay a juvenile case manager fee not
17 to exceed \$5 as a cost of court if the court employs a juvenile case
18 manager. A justice court, county court, or county court at law that
19 does not employ a juvenile case manager may not collect a fee under
20 this subsection.

21 SECTION 9. Subsections (a) and (b), Section 25.091,
22 Education Code, are amended to read as follows:

23 (a) A peace officer serving as an attendance officer has the
24 following powers and duties concerning enforcement of compulsory
25 school attendance requirements:

26 (1) to investigate each case of a violation of
27 compulsory school attendance requirements referred to the peace

1 officer;

2 (2) to enforce compulsory school attendance
3 requirements by:

4 (A) applying truancy prevention measures adopted
5 under Section 25.0915 to the student; and

6 (B) if the truancy prevention measures fail to
7 meaningfully address the student's conduct:

8 (i) referring the [a] student to a juvenile
9 court or filing a complaint against the [a] student in a county,
10 justice, or municipal court if the student has unexcused absences
11 for the amount of time specified under Section 25.094 or under
12 Section 51.03(b)(2), Family Code; or [and]

13 (ii) [~~B~~] filing a complaint in a county,
14 justice, or municipal court against a parent who violates Section
15 25.093;

16 (3) to serve court-ordered legal process;

17 (4) to review school attendance records for compliance
18 by each student investigated by the officer;

19 (5) to maintain an investigative record on each
20 compulsory school attendance requirement violation and related
21 court action and, at the request of a court, the board of trustees
22 of a school district, or the commissioner, to provide a record to
23 the individual or entity requesting the record;

24 (6) to make a home visit or otherwise contact the
25 parent of a student who is in violation of compulsory school
26 attendance requirements, except that a peace officer may not enter
27 a residence without the permission of the parent of a student

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1 required under this subchapter to attend school or of the tenant or
2 owner of the residence except to lawfully serve court-ordered legal
3 process on the parent; and

4 (7) to take a student into custody with the permission
5 of the student's parent or in obedience to a court-ordered legal
6 process.

7 (b) An attendance officer employed by a school district who
8 is not commissioned as a peace officer has the following powers and
9 duties with respect to enforcement of compulsory school attendance
10 requirements:

11 (1) to investigate each case of a violation of the
12 compulsory school attendance requirements referred to the
13 attendance officer;

14 (2) to enforce compulsory school attendance
15 requirements by:

16 (A) applying truancy prevention measures adopted
17 under Section 25.0915 to the student; and

18 (B) if the truancy prevention measures fail to
19 meaningfully address the student's conduct:

20 (i) referring the [a] student to a juvenile
21 court or filing a complaint against the [a] student in a county,
22 justice, or municipal court if the student has unexcused absences
23 for the amount of time specified under Section 25.094 or under
24 Section 51.03(b)(2), Family Code; and

25 (ii) [~~B~~] filing a complaint in a county,
26 justice, or municipal court against a parent who violates Section
27 25.093;

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1 (3) to monitor school attendance compliance by each
2 student investigated by the officer;

3 (4) to maintain an investigative record on each
4 compulsory school attendance requirement violation and related
5 court action and, at the request of a court, the board of trustees
6 of a school district, or the commissioner, to provide a record to
7 the individual or entity requesting the record;

8 (5) to make a home visit or otherwise contact the
9 parent of a student who is in violation of compulsory school
10 attendance requirements, except that the attendance officer may not
11 enter a residence without permission of the parent or of the owner
12 or tenant of the residence;

13 (6) at the request of a parent, to escort a student
14 from any location to a school campus to ensure the student's
15 compliance with compulsory school attendance requirements; and

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

22 SECTION 10. Subchapter C, Chapter 25, Education Code, is
23 amended by adding Section 25.0915 to read as follows:

24 Sec. 25.0915. TRUANCY PREVENTION MEASURES; REFERRAL AND
25 FILING REQUIREMENT. (a) A school district shall adopt truancy
26 prevention measures designed to:

27 (1) address student conduct related to truancy in the

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1 school setting;

2 (2) minimize the need for referrals to juvenile court
3 for conduct described by Section 51.03(b)(2), Family Code; and

4 (3) minimize the filing of complaints in county,
5 justice, and municipal courts alleging a violation of Section
6 25.094.

7 (b) Each referral to juvenile court for conduct described by
8 Section 51.03(b)(2), Family Code, or complaint filed in county,
9 justice, or municipal court alleging a violation by a student of
10 Section 25.094 must:

11 (1) be accompanied by a statement from the student's
12 school certifying that:

13 (A) the school applied the truancy prevention
14 measures adopted under Subsection (a) to the student; and

15 (B) the truancy prevention measures failed to
16 meaningfully address the student's school attendance; and

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

19 SECTION 11. Section 58.106, Family Code, is amended by
20 amending Subsection (a) and adding Subsection (a-1) to read as
21 follows:

22 (a) Except as otherwise provided by this section,
23 information contained in the juvenile justice information system is
24 confidential information for the use of the department and may not
25 be disseminated by the department except:

26 (1) with the permission of the juvenile offender, to
27 military personnel of this state or the United States;

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1 (2) to a person or entity to which the department may
2 grant access to adult criminal history records as provided by
3 Section 411.083, Government Code;

4 (3) to a juvenile justice agency;

5 (4) to the Texas Youth Commission and the Texas
6 Juvenile Probation Commission for analytical purposes; ~~and~~

7 (5) to the office of independent ombudsman of the
8 Texas Youth Commission; and

9 (6) to a county, justice, or municipal court
10 exercising jurisdiction over a juvenile under Section 54.021.

11 (a-1) Information disseminated under Subsection (a) remains
12 confidential after dissemination and may be disclosed by the
13 recipient only as provided by this title.

14 SECTION 12. Section 102.061, Government Code, as amended by
15 Chapters 87 (S.B. 1969), 1172 (H.B. 3389), and 1183 (H.B. 3637),
16 Acts of the 81st Legislature, Regular Session, 2009, is reenacted
17 and amended to read as follows:

18 Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN
19 STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of
20 a statutory county court shall collect fees and costs under the Code
21 of Criminal Procedure on conviction of a defendant as follows:

22 (1) a jury fee (Art. 102.004, Code of Criminal
23 Procedure) . . . \$20;

24 (2) a fee for services of the clerk of the court
25 (Art. 102.005, Code of Criminal Procedure) . . . \$40;

26 (3) a records management and preservation services fee
27 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

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1 (4) a county and district court technology fee
2 (Art. 102.0169, Code of Criminal Procedure) . . . \$4;

3 (5) a security fee on a misdemeanor offense
4 (Art. 102.017, Code of Criminal Procedure) . . . \$3;

5 (6) a juvenile delinquency prevention and graffiti
6 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
7 \$50; [~~and~~]

8 (7) a juvenile case manager fee (Art. 102.0174, Code
9 of Criminal Procedure) . . . not to exceed \$5 if the court employs a
10 juvenile case manager; and

11 (8) [~~(7)~~] a civil justice fee (Art. 102.022, Code of
12 Criminal Procedure) . . . \$0.10.

13 SECTION 13. Section 102.081, Government Code, as amended by
14 Chapters 87 (\$B. 1969), 1172 (H.B. 3389), and 1183 (H.B. 3637),
15 Acts of the 81st Legislature, Regular Session, 2009, is reenacted
16 and amended to read as follows:

17 Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN
18 COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county
19 court shall collect fees and costs under the Code of Criminal
20 Procedure on conviction of a defendant as follows:

21 (1) a jury fee (Art. 102.004, Code of Criminal
22 Procedure) . . . \$20;

23 (2) a fee for clerk of the court services
24 (Art. 102.005, Code of Criminal Procedure) . . . \$40;

25 (3) a records management and preservation services fee
26 (Art. 102.005, Code of Criminal Procedure) . . . \$25;

27 (4) a county and district court technology fee

1 (Art. 102.0169, Code of Criminal Procedure) . . . \$4;

2 (5) a security fee on a misdemeanor offense
3 (Art. 102.017, Code of Criminal Procedure) . . . \$3;

4 (6) a juvenile delinquency prevention and graffiti
5 eradication fee (Art. 102.0171, Code of Criminal Procedure) . . .
6 \$50; [~~and~~]

7 (7) a juvenile case manager fee (Art. 102.0174, Code
8 of Criminal Procedure) . . . not to exceed \$5 if the court employs a
9 juvenile case manager; and

10 (8) [~~(7)~~] a civil justice fee (Art. 102.022, Code of
11 Criminal Procedure) . . . \$0.10.

12 SECTION 14. Section 102.101, Government Code, is amended to
13 read as follows:

14 Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN
15 JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice
16 court shall collect fees and costs under the Code of Criminal
17 Procedure on conviction of a defendant as follows:

18 (1) a jury fee (Art. 102.004, Code of Criminal
19 Procedure) . . . \$3;

20 (2) a fee for withdrawing request for jury less than 24
21 hours before time of trial (Art. 102.004, Code of Criminal
22 Procedure) . . . \$3;

23 (3) a jury fee for two or more defendants tried jointly
24 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

25 (4) a security fee on a misdemeanor offense (Art.
26 102.017, Code of Criminal Procedure) . . . \$4;

27 (5) a fee for technology fund on a misdemeanor offense

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1 (Art. 102.0173, Code of Criminal Procedure) . . . \$4;

2 (6) a juvenile case manager fee (Art. 102.0174, Code
3 of Criminal Procedure) . . . not to exceed \$5 if the court employs a
4 juvenile case manager;

5 (7) a fee on conviction of certain offenses involving
6 issuing or passing a subsequently dishonored check (Art. 102.0071,
7 Code of Criminal Procedure) . . . not to exceed \$30;

8 (8) a court cost on conviction of a Class C misdemeanor
9 in a county with a population of 3.3 million or more, if authorized
10 by the county commissioners court (Art. 102.009, Code of Criminal
11 Procedure) . . . not to exceed \$7; and

12 (9) a civil justice fee (Art. 102.022, Code of
13 Criminal Procedure) . . . \$0.10.

14 SECTION 15. Section 102.121, Government Code, is amended to
15 read as follows:

16 Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN
17 MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a
18 municipal court shall collect fees and costs on conviction of a
19 defendant as follows:

20 (1) a jury fee (Art. 102.004, Code of Criminal
21 Procedure) . . . \$3;

22 (2) a fee for withdrawing request for jury less than 24
23 hours before time of trial (Art. 102.004, Code of Criminal
24 Procedure) . . . \$3;

25 (3) a jury fee for two or more defendants tried jointly
26 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

27 (4) a security fee on a misdemeanor offense (Art.

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1 102.017, Code of Criminal Procedure) . . . \$3;

2 (5) a fee for technology fund on a misdemeanor offense
3 (Art. 102.0172, Code of Criminal Procedure) . . . not to exceed \$4;

4 (6) a juvenile case manager fee (Art. 102.0174, Code
5 of Criminal Procedure) . . . not to exceed \$5 if the municipality
6 employs a juvenile case manager; and

7 (7) a civil justice fee (Art. 102.022, Code of
8 Criminal Procedure) . . . \$0.10.

9 SECTION 16. Subsection (e), Article 45.056, Code of
10 Criminal Procedure, is repealed.

11 SECTION 17. The change in law made by this Act applies only
12 to conduct that occurs on or after the effective date of this Act.
13 Conduct that occurs before the effective date of this Act is
14 governed by the law in effect at the time the conduct occurred, and
15 the former law is continued in effect for that purpose. For
16 purposes of this section, conduct occurs before the effective date
17 of this Act if any element of the violation occurs before that date.

18 SECTION 18. To the extent of any conflict, this Act prevails
19 over another Act of the 82nd Legislature, Regular Session, 2011,
20 relating to nonsubstantive additions to and corrections in enacted
21 codes.

22 SECTION 19. This Act takes effect September 1, 2011.

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David Newkum

President of the Senate

Joe Straus

Speaker of the House

I hereby certify that S.B. No. 1489 passed the Senate on April 26, 2011, by the following vote: Yeas 27, Nays 4; May 24, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 25, 2011, House granted request of the Senate; May 28, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Betsy Spaw

Secretary of the Senate

I hereby certify that S.B. No. 1489 passed the House, with amendments, on May 23, 2011, by the following vote: Yeas 139, Nays 0, three present not voting; May 25, 2011, House granted request of the Senate for appointment of Conference Committee; May 28, 2011, House adopted Conference Committee Report by the following vote: Yeas 146, Nays 0, one present not voting.

Robert Haney

Chief Clerk of the House

Approved:

17 JUN '11

Date

RICK PERRY

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4 PM O'CLOCK

JUN 17 2011

Debra R. Burk

Secretary of State