

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

5/28/2015

Date

Honorable Dan Patrick  
President of the Senate


Honorable Joe Straus  
Speaker of the House of Representatives

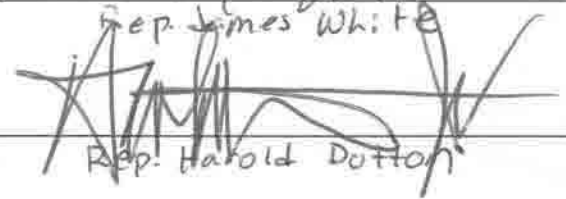
Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on House Bill 2398 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

  
sen. John Whitmire

  
Rep. James White


  
sen. Joan Huffman

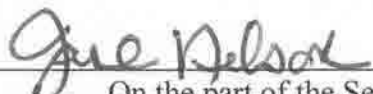
  
Rep. Harold Dutton

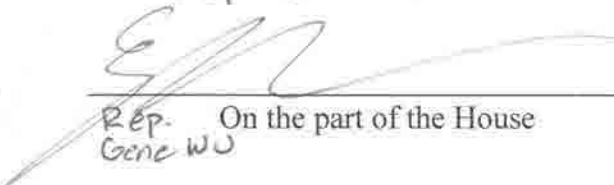
  
Sen. Royce West

Rep. Dan Huberty

  
Sen. Robert Nichols

  
Rep. Four Price

  
On the part of the Senate

  
Rep. On the part of the House  
Gene WU

## Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.



# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 2398

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to court jurisdiction and procedures relating to truancy;  
3 establishing judicial donation trust funds; providing criminal  
4 penalties; imposing a court cost.

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

6 SECTION 1. Article 4.14(g), Code of Criminal Procedure, is  
7 amended to read as follows:

8 (g) A municipality may enter into an agreement with a  
9 contiguous municipality or a municipality with boundaries that are  
10 within one-half mile of the municipality seeking to enter into the  
11 agreement to establish concurrent jurisdiction of the municipal  
12 courts in the municipalities and provide original jurisdiction to a  
13 municipal court in which a case is brought as if the municipal court  
14 were located in the municipality in which the case arose, for:

15 (1) all cases in which either municipality has  
16 jurisdiction under Subsection (a); and

17 (2) cases that arise under Section 821.022, Health and  
18 Safety Code [~~7, or Section 25.094, Education Code~~].

19 SECTION 2. Articles 45.0216(f) and (g), Code of Criminal  
20 Procedure, are amended to read as follows:

21 (f) The court shall order the conviction, together with all  
22 complaints, verdicts, sentences, and prosecutorial and law  
23 enforcement records, and any other documents relating to the  
24 offense, expunged from the person's record if the court finds that:

1 (1) for a person applying for the expunction of a  
2 conviction for an offense described by Section 8.07(a)(4) or (5),  
3 Penal Code, the person was not convicted of any other offense  
4 described by Section 8.07(a)(4) or (5), Penal Code, while the  
5 person was a child; and

6 (2) for a person applying for the expunction of a  
7 conviction for an offense described by Section 43.261, Penal Code,  
8 the person was not found to have engaged in conduct indicating a  
9 need for supervision described by Section 51.03(b)(7)  
10 [~~51.03(b)(8)~~], Family Code, while the person was a child.

11 (g) This article does not apply to any offense otherwise  
12 covered by:

13 (1) Chapter 106, Alcoholic Beverage Code; or

14 (2) Chapter 161, Health and Safety Code [~~or~~

15 [~~(3) Section 25.094, Education Code~~].

16 SECTION 3. Subchapter B, Chapter 45, Code of Criminal  
17 Procedure, is amended by adding Articles 45.0531 and 45.0541 to  
18 read as follows:

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

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

27 (2) sufficient justification exists for the failure to

1 attend school.

2 Art. 45.0541. EXPUNCTION OF FAILURE TO ATTEND SCHOOL  
3 RECORDS. (a) In this article, "truancy offense" means an offense  
4 committed under the former Section 25.094, Education Code.

5 (b) An individual who has been convicted of a truancy  
6 offense or has had a complaint for a truancy offense dismissed is  
7 entitled to have the conviction or complaint and records relating  
8 to the conviction or complaint expunged.

9 (c) Regardless of whether the individual has filed a  
10 petition for expunction, the court in which the individual was  
11 convicted or a complaint for a truancy offense was filed shall order  
12 the conviction, complaints, verdicts, sentences, and other  
13 documents relating to the offense, including any documents in the  
14 possession of a school district or law enforcement agency, to be  
15 expunged from the individual's record. After entry of the order,  
16 the individual is released from all disabilities resulting from the  
17 conviction or complaint, and the conviction or complaint may not be  
18 shown or made known for any purpose.

19 SECTION 4. Article 45.056(a), Code of Criminal Procedure,  
20 as amended by Chapters 1213 (S.B. 1419) and 1407 (S.B. 393), Acts of  
21 the 83rd Legislature, Regular Session, 2013, is reenacted and  
22 amended to read as follows:

23 (a) On approval of the commissioners court, city council,  
24 school district board of trustees, juvenile board, or other  
25 appropriate authority, a county court, justice court, municipal  
26 court, school district, juvenile probation department, or other  
27 appropriate governmental entity may:

1           (1) employ a case manager to provide services in cases  
2 involving juvenile offenders who are before a court consistent with  
3 the court's statutory powers or referred to a court by a school  
4 administrator or designee for misconduct that would otherwise be  
5 within the court's statutory powers prior to a case being filed,  
6 with the consent of the juvenile and the juvenile's parents or  
7 guardians;

8           (2) employ one or more juvenile case managers who:

9                   (A) shall assist the court in administering the  
10 court's juvenile docket and in supervising the court's orders in  
11 juvenile cases; and

12                   (B) may provide:

13                           (i) prevention services to a child  
14 considered at risk of entering the juvenile justice system; and

15                           (ii) intervention services to juveniles  
16 engaged in misconduct before cases are filed, excluding traffic  
17 offenses; or

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

23           SECTION 5. Article 102.014(d), Code of Criminal Procedure,  
24 is amended to read as follows:

25           (d) A person convicted of an offense under Section 25.093  
26 [~~or 25.094~~], Education Code, shall pay as taxable court costs \$20 in  
27 addition to other taxable court costs. The additional court costs

1 under this subsection shall be collected in the same manner that  
2 other fines and taxable court costs in the case are collected.

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

7 (a) The board shall provide for the administration of high  
8 school equivalency examinations.

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

13 (a-1) A person who does not have a high school diploma may  
14 take the examination in accordance with rules adopted by the board  
15 if the person is:

16 (1) over 17 years of age;

17 (2) 16 years of age or older and:

18 (A) is enrolled in a Job Corps training program  
19 under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801  
20 et seq.), and its subsequent amendments;

21 (B) a public agency providing supervision of the  
22 person or having custody of the person under a court order  
23 recommends that the person take the examination; or

24 (C) is enrolled in the Texas Military  
25 Department's [~~adjutant general's department's~~] Seaborne Challenge  
26 Corps; or

27 (3) required to take the examination under a court

1 order issued under Section 65.103(a)(3), Family Code.

2 SECTION 7. Section 25.085, Education Code, is amended by  
3 amending Subsections (b), (e), and (f) and adding Subsections (g)  
4 and (h) to read as follows:

5 (b) Unless specifically exempted by Section 25.086, a child  
6 who is at least six years of age, or who is younger than six years of  
7 age and has previously been enrolled in first grade, and who has not  
8 yet reached the child's 19th [~~18th~~] birthday shall attend school.

9 (e) A person who voluntarily enrolls in school or  
10 voluntarily attends school after the person's 19th [~~18th~~] birthday  
11 shall attend school each school day for the entire period the  
12 program of instruction is offered. A school district may revoke for  
13 the remainder of the school year the enrollment of a person who has  
14 more than five absences in a semester that are not excused under  
15 Section 25.087, except a school district may not revoke the  
16 enrollment of a person under this subsection on a day on which the  
17 person is physically present at school. A person whose enrollment  
18 is revoked under this subsection may be considered an unauthorized  
19 person on school district grounds for purposes of Section 37.107.

20 (f) The board of trustees of a school district may adopt a  
21 policy requiring a person described by Subsection (e) who is under  
22 21 years of age to attend school until the end of the school year.  
23 Section 65.003(a), Family Code, does not apply [~~25.094 applies~~] to  
24 a person subject to a policy adopted under this subsection.  
25 Sections 25.093 and 25.095 do not apply to the parent of a person  
26 subject to a policy adopted under this subsection.

27 (g) After the third unexcused absence of a person described



1 by Subsection (e), a school district shall issue a warning letter to  
2 the person that states the person's enrollment may be revoked for  
3 the remainder of the school year if the person has more than five  
4 unexcused absences in a semester.

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

8 SECTION 8. Sections 25.091(a) and (b), Education Code, are  
9 amended to read as follows:

10 (a) A peace officer serving as an attendance officer has the  
11 following powers and duties concerning enforcement of compulsory  
12 school attendance requirements:

13 (1) to investigate each case of a violation of  
14 compulsory school attendance requirements referred to the peace  
15 officer;

16 (2) to enforce compulsory school attendance  
17 requirements by:

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

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

22 (i) referring the student to a truancy  
23 court [~~juvenile court or filing a complaint against the student in a~~  
24 ~~county, justice, or municipal court~~] if the student has unexcused  
25 absences for the amount of time specified under Section 65.003(a)  
26 [~~25.094 or under Section 51.03(b)(2)~~], Family Code; or

27 (ii) filing a complaint in a county,

1 justice, or municipal court against a parent who violates Section  
2 25.093;

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

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

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

11 (6) to make a home visit or otherwise contact the  
12 parent of a student who is in violation of compulsory school  
13 attendance requirements, except that a peace officer may not enter  
14 a residence without the permission of the parent of a student  
15 required under this subchapter to attend school or of the tenant or  
16 owner of the residence except to lawfully serve court-ordered legal  
17 process on the parent [~~and~~

18 [~~(7) to take a student into custody with the~~  
19 ~~permission of the student's parent or in obedience to a~~  
20 ~~court-ordered legal process].~~

21 (b) An attendance officer employed by a school district who  
22 is not commissioned as a peace officer has the following powers and  
23 duties with respect to enforcement of compulsory school attendance  
24 requirements:

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

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

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

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

7                           (i) referring the student to a truancy  
8 court [~~juvenile court or filing a complaint against the student in a~~  
9 ~~county, justice, or municipal court~~] if the student has unexcused  
10 absences for the amount of time specified under Section 65.003(a)  
11 [~~25.094 or under Section 51.03(b)(2)~~], Family Code; and

12                           (ii) filing a complaint in a county,  
13 justice, or municipal court against a parent who violates Section  
14 25.093;

15           (3) to monitor school attendance compliance by each  
16 student investigated by the officer;

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

22           (5) to make a home visit or otherwise contact the  
23 parent of a student who is in violation of compulsory school  
24 attendance requirements, except that the attendance officer may not  
25 enter a residence without permission of the parent or of the owner  
26 or tenant of the residence; and

27           (6) at the request of a parent, to escort a student

1 from any location to a school campus to ensure the student's  
2 compliance with compulsory school attendance requirements[ ~~and~~  
3  ~~[(7) if the attendance officer has or is informed of a~~  
4  ~~court-ordered legal process directing that a student be taken into~~  
5  ~~custody and the school district employing the officer does not~~  
6  ~~employ its own police department, to contact the sheriff,~~  
7  ~~constable, or any peace officer to request that the student be taken~~  
8  ~~into custody and processed according to the legal process].~~

9 SECTION 9. Section 25.0915, Education Code, is amended to  
10 read as follows:

11 Sec. 25.0915. TRUANCY PREVENTION MEASURES[ ~~REFERRAL AND~~  
12  ~~FILING REQUIREMENT~~]. (a) A school district shall adopt truancy  
13 prevention measures designed to:

14 (1) address student conduct related to truancy in the  
15 school setting before the student engages in conduct described by  
16 Section 65.003(a), Family Code; and

17 (2) minimize the need for referrals to truancy  
18 ~~[juvenile]~~ court for conduct described by Section 65.003(a)  
19 ~~[51.03(b)(2)]~~, Family Code[ ~~and~~

20  ~~[(3) minimize the filing of complaints in county,~~  
21  ~~justice, and municipal courts alleging a violation of Section~~  
22  ~~25.094].~~

23 (a-1) As a truancy prevention measure under Subsection (a),  
24 a school district shall take one or more of the following actions:

25 (1) impose:

26 (A) a behavior improvement plan on the student  
27 that must be signed by an employee of the school, that the school

1 district has made a good faith effort to have signed by the student  
2 and the student's parent or guardian, and that includes:

3 (i) a specific description of the behavior  
4 that is required or prohibited for the student;

5 (ii) the period for which the plan will be  
6 effective, not to exceed 45 school days after the date the contract  
7 becomes effective; or

8 (iii) the penalties for additional  
9 absences, including additional disciplinary action or the referral  
10 of the student to a truancy court; or

11 (B) school-based community service; or

12 (2) refer the student to counseling, mediation,  
13 mentoring, a teen court program, community-based services, or other  
14 in-school or out-of-school services aimed at addressing the  
15 student's truancy.

16 (a-2) A referral made under Subsection (a-1)(2) may include  
17 participation by the child's parent or guardian if necessary.

18 (a-3) A school district shall offer additional counseling  
19 to a student and may not refer the student to truancy court if the  
20 school determines that the student's truancy is the result of:

21 (1) pregnancy;

22 (2) being in the state foster program;

23 (3) homelessness; or

24 (4) being the principal income earner for the  
25 student's family.

26 (a-4) If a student fails to attend school without excuse on  
27 three or more days or parts of days within a four-week period but

1 does not fail to attend school for the time described by Section  
2 25.0951(a), the school district shall initiate truancy prevention  
3 measures under this section on the student.

4 (b) Each referral to truancy [~~juvenile~~] court for conduct  
5 described by Section 65.003(a) [~~51.03(b)(2)~~], Family Code, [~~or~~  
6 ~~complaint filed in county, justice, or municipal court alleging a~~  
7 ~~violation by a student of Section 25.094]~~ must:

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

10 (A) the school applied the truancy prevention  
11 measures adopted under Subsection (a) or (a-4) to the student; and

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

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

16 (c) A truancy court shall dismiss a petition filed by a  
17 truant conduct prosecutor under Section 65.054, Family Code, if the  
18 court determines that the school district's referral:

19 (1) does [~~complaint or referral made by a school~~  
20 ~~district under this section that is]~~ not comply [~~made in~~  
21 ~~compliance]~~ with Subsection (b);

22 (2) does not satisfy the elements required for truant  
23 conduct;

24 (3) is not timely filed, unless the school district  
25 delayed the referral under Section 25.0951(d); or

26 (4) is otherwise substantively defective.

27 (d) Except as provided by Subsection (e), a school district

1 shall employ a truancy prevention facilitator or juvenile case  
2 manager to implement the truancy prevention measures required by  
3 this section and any other effective truancy prevention measures as  
4 determined by the school district or campus. At least annually, the  
5 truancy prevention facilitator shall meet to discuss effective  
6 truancy prevention measures with a case manager or other individual  
7 designated by a truancy court to provide services to students of the  
8 school district in truancy cases.

9 (e) Instead of employing a truancy prevention facilitator,  
10 a school district may designate an existing district employee or  
11 juvenile case manager to implement the truancy prevention measures  
12 required by this section and any other effective truancy prevention  
13 measures as determined by the school district or campus.

14 (f) The agency shall adopt rules:

15 (1) creating minimum standards for truancy prevention  
16 measures adopted by a school district under this section; and

17 (2) establishing a set of best practices for truancy  
18 prevention measures.

19 (g) The agency shall adopt rules to provide for sanctions  
20 for a school district found to be not in compliance with this  
21 section.

22 SECTION 10. Section 25.0916, Education Code, is amended by  
23 amending Subsections (a), (c), (f), (h), and (i) and adding  
24 Subsection (c-1) to read as follows:

25 (a) This section applies only to a county with two or more  
26 courts hearing truancy cases and two or more school districts[+

27 [~~1~~] ~~with a population greater than 1.5 million; and~~

1           ~~[(2) that includes at least:~~

2                   ~~[(A) 15 school districts with the majority of~~  
3 ~~district territory in the county; and~~

4                   ~~[(B) one school district with a student~~  
5 ~~enrollment of 50,000 or more and an annual dropout rate spanning~~  
6 ~~grades 9-12 of at least five percent, computed in accordance with~~  
7 ~~standards and definitions adopted by the National Center for~~  
8 ~~Education Statistics of the United States Department of Education].~~

9           (c) Unless the county has already adopted a uniform truancy  
10 policy under this section, not ~~[Not]~~ later than January ~~[September]~~  
11 1, 2016 ~~[2013]~~, the county judge or the county judge's designee and  
12 the mayor of the municipality in the county with the greatest  
13 population or the mayor's designee shall each appoint one member to  
14 serve on the committee as a representative of each of the following:

15                   (1) a juvenile ~~[district]~~ court;

16                   (2) a municipal court;

17                   (3) the office of a justice of the peace;

18                   (4) the superintendent or designee of an independent  
19 school district;

20                   (5) an open-enrollment charter school, if one exists  
21 in the county;

22                   (6) the office of the prosecutor with original truancy  
23 jurisdiction in the county ~~[district attorney]~~; and

24                   (7) the general public.

25           (c-1) In addition to the members listed in Subsection (c),  
26 the chief juvenile probation officer or the officer's designee  
27 serves on the committee. The county judge or the county judge's



1 designee and the mayor of the municipality in the county with the  
2 greatest population or the mayor's designee may make additional  
3 appointments as needed.

4 (f) Unless a county has already adopted a uniform truancy  
5 policy under this section, not ~~Not~~ later than May ~~[September]~~ 1,  
6 2016 ~~[2014]~~, the committee shall recommend:

7 (1) a uniform process for filing truancy cases with  
8 truancy courts ~~[the judicial system];~~

9 (2) uniform administrative procedures;

10 (3) uniform deadlines for processing truancy cases;

11 (4) a local plan with strategies to address truancy,  
12 including effective prevention, intervention, and diversion  
13 methods to reduce truancy and referrals to a truancy ~~[county,~~  
14 ~~justice, or municipal]~~ court;

15 (5) a system for tracking truancy information and  
16 sharing truancy information among school districts, ~~[and]~~  
17 open-enrollment charter schools, truancy courts, juvenile courts,  
18 and juvenile probation departments in the county; and

19 (6) any changes to statutes or state agency rules the  
20 committee determines are necessary to address truancy.

21 (h) The committee's presiding officer shall issue a report  
22 not later than December 1, 2017 ~~[2015]~~, to the county judge and  
23 mayor of the municipality with the greatest population in the  
24 county on the implementation of the recommendations and compliance  
25 with state truancy laws by a school district located in the county.

26 (i) This section expires January 1, 2018 ~~[2016]~~.

27 SECTION 11. Section 25.093, Education Code, is amended by

1 amending Subsections (a) and (c) and adding Subsection (c-1) to  
2 read as follows:

3 (a) If a warning is issued as required by Section 25.095(a),  
4 the parent with criminal negligence fails to require the child to  
5 attend school as required by law, and the child has absences for the  
6 amount of time specified under Section 65.003(a), Family Code  
7 [25.094], the parent commits an offense.

8 (c) An offense under Subsection (a) is a ~~[Class C]~~  
9 misdemeanor, punishable by fine only, in an amount not to exceed:

- 10 (1) \$100 for a first offense;
- 11 (2) \$200 for a second offense;
- 12 (3) \$300 for a third offense;
- 13 (4) \$400 for a fourth offense; or
- 14 (5) \$500 for a fifth or subsequent offense.

15 (c-1) Each day the child remains out of school may  
16 constitute a separate offense. Two or more offenses under  
17 Subsection (a) may be consolidated and prosecuted in a single  
18 action. If the court orders deferred disposition under Article  
19 45.051, Code of Criminal Procedure, the court may require the  
20 defendant to provide personal services to a charitable or  
21 educational institution as a condition of the deferral.

22 SECTION 12. Sections 25.095(a), (b), and (c), Education  
23 Code, are amended to read as follows:

24 (a) A school district or open-enrollment charter school  
25 shall notify a student's parent in writing at the beginning of the  
26 school year that if the student is absent from school on 10 or more  
27 days or parts of days within a six-month period in the same school

1 year [~~or on three or more days or parts of days within a four-week~~  
2 ~~period~~]:

3 (1) the student's parent is subject to prosecution  
4 under Section 25.093; and

5 (2) the student is subject to [~~prosecution under~~  
6 ~~Section 25.094 or to~~] referral to a truancy [~~juvenile~~] court [~~in a~~  
7 ~~county with a population of less than 100,000~~] for truancy conduct  
8 under Section 65.003(a), Family Code [~~that violates that section~~].

9 (b) A school district shall notify a student's parent if the  
10 student has been absent from school, without excuse under Section  
11 25.087, on three days or parts of days within a four-week period.  
12 The notice must:

13 (1) inform the parent that:

14 (A) it is the parent's duty to monitor the  
15 student's school attendance and require the student to attend  
16 school; and

17 (B) the student [~~parent~~] is subject to truancy  
18 prevention measures [~~prosecution~~] under Section 25.0915 [~~25.093~~];  
19 and

20 (2) request a conference between school officials and  
21 the parent to discuss the absences.

22 (c) The fact that a parent did not receive a notice under  
23 Subsection (a) or (b) does not create a defense [~~to prosecution~~]  
24 under Section 25.093 or under Section 65.003(a), Family Code  
25 [~~25.094~~].

26 SECTION 13. Section 25.0951, Education Code, is amended to  
27 read as follows:

1           Sec. 25.0951. SCHOOL DISTRICT COMPLAINT OR REFERRAL FOR  
2 FAILURE TO ATTEND SCHOOL. (a) If a student fails to attend school  
3 without excuse on 10 or more days or parts of days within a  
4 six-month period in the same school year, a school district shall  
5 within 10 school days of the student's 10th absence[+

6           ~~[(1) file a complaint against the student or the~~  
7 ~~student's parent or both in a county, justice, or municipal court~~  
8 ~~for an offense under Section 25.093 or 25.094, as appropriate, or~~  
9 ~~refer the student to a juvenile court in a county with a population~~  
10 ~~of less than 100,000 for conduct that violates Section 25.094; or~~

11           ~~[(2)]~~ refer the student to a truancy [juvenile] court  
12 for truant conduct [~~indicating a need for supervision~~] under  
13 Section 65.003(a) [~~51.03(b)(2)~~], Family Code.

14           (b) If a student fails to attend school without excuse as  
15 specified by Subsection (a), a school district may file a complaint  
16 against the student's parent in a county, justice, or municipal  
17 court for an offense under Section 25.093 if the school district  
18 provides evidence of the parent's criminal negligence [~~If a student~~  
19 ~~fails to attend school without excuse on three or more days or parts~~  
20 ~~of days within a four-week period but does not fail to attend school~~  
21 ~~for the time described by Subsection (a), the school district may+~~

22           ~~[(1) file a complaint against the student or the~~  
23 ~~student's parent or both in a county, justice, or municipal court~~  
24 ~~for an offense under Section 25.093 or 25.094, as appropriate, or~~  
25 ~~refer the student to a juvenile court in a county with a population~~  
26 ~~of less than 100,000 for conduct that violates Section 25.094; or~~

27           ~~[(2) refer the student to a juvenile court for conduct~~

1 ~~indicating a need for supervision under Section 51.03(b)(2), Family~~  
2 ~~Code].~~

3 ~~(c)~~ In this subsection ~~[section]~~, "parent" includes a  
4 person standing in parental relation.

5 (c) ~~(d)~~ A court shall dismiss a complaint ~~[or referral]~~  
6 made by a school district under Subsection (b) ~~[under this section]~~  
7 that:

8 (1) does [is] not comply [made in compliance] with  
9 this section;

10 (2) does not allege the elements required for the  
11 offense;

12 (3) is not timely filed, unless the school district  
13 delayed the referral under Subsection (d); or

14 (4) is otherwise substantively defective.

15 (d) Notwithstanding Subsection (a), a school district may  
16 delay a referral of a student for truant conduct, or may choose to  
17 not refer a student for truant conduct, if the school district:

18 (1) is applying truancy prevention measures to the  
19 student under Section 25.0915; and

20 (2) determines that the truancy prevention measures  
21 are succeeding and it is in the best interest of the student that a  
22 referral be delayed or not be made.

23 SECTION 14. Section 25.0952, Education Code, is amended to  
24 read as follows:

25 Sec. 25.0952. PROCEDURES APPLICABLE TO PARENT CONTRIBUTING  
26 TO NONATTENDANCE OFFENSE ~~[SCHOOL ATTENDANCE-RELATED OFFENSES]~~. In  
27 a proceeding based on a complaint under Section 25.093 ~~[or 25.094]~~,

1 the court shall, except as otherwise provided by this chapter, use  
2 the procedures and exercise the powers authorized by Chapter 45,  
3 Code of Criminal Procedure.

4 SECTION 15. Section 29.087(d), Education Code, is amended  
5 to read as follows:

6 (d) A student is eligible to participate in a program  
7 authorized by this section if:

8 (1) the student has been ordered by a court under  
9 Section 65.103, Family Code [~~Article 45.054, Code of Criminal~~  
10 ~~Procedure, as added by Chapter 1514, Acts of the 77th Legislature,~~  
11 ~~Regular Session, 2001~~], or by the Texas Juvenile Justice Department  
12 [~~Youth Commission~~] to:

13 (A) participate in a preparatory class for the  
14 high school equivalency examination; or

15 (B) take the high school equivalency examination  
16 administered under Section 7.111; or

17 (2) the following conditions are satisfied:

18 (A) the student is at least 16 years of age at the  
19 beginning of the school year or semester;

20 (B) the student is a student at risk of dropping  
21 out of school, as defined by Section 29.081;

22 (C) the student and the student's parent or  
23 guardian agree in writing to the student's participation;

24 (D) at least two school years have elapsed since  
25 the student first enrolled in ninth grade and the student has  
26 accumulated less than one third of the credits required to graduate  
27 under the minimum graduation requirements of the district or

1 school; and

2 (E) any other conditions specified by the  
3 commissioner.

4 SECTION 16. Section 33.051(2), Education Code, is amended  
5 to read as follows:

6 (2) "Missing child" means a child whose whereabouts  
7 are unknown to the legal custodian of the child and:

8 (A) the circumstances of whose absence indicate  
9 that the child did not voluntarily leave the care and control of the  
10 custodian and that the taking of the child was not authorized by  
11 law; or

12 (B) the child has engaged in conduct indicating a  
13 need for supervision under Section 51.03(b)(2) [~~51.03(b)(3)~~],  
14 Family Code.

15 SECTION 17. Section 51.02(15), Family Code, is amended to  
16 read as follows:

17 (15) "Status offender" means a child who is accused,  
18 adjudicated, or convicted for conduct that would not, under state  
19 law, be a crime if committed by an adult, including:

20 (A) [~~truancy under Section 51.03(b)(2)~~],

21 [~~(B)~~] running away from home under Section  
22 51.03(b)(2) [~~51.03(b)(3)~~];

23 (B) [~~(C)~~] a fineable only offense under Section  
24 51.03(b)(1) transferred to the juvenile court under Section  
25 51.08(b), but only if the conduct constituting the offense would  
26 not have been criminal if engaged in by an adult;

27 [~~(D) failure to attend school under Section~~

1 ~~25.094, Education Code,~~

2                    (C) [~~E~~] a violation of standards of student  
3 conduct as described by Section 51.03(b)(4) [~~51.03(b)(5)~~];

4                    (D) [~~F~~] a violation of a juvenile curfew  
5 ordinance or order;

6                    (E) [~~G~~] a violation of a provision of the  
7 Alcoholic Beverage Code applicable to minors only; or

8                    (F) [~~H~~] a violation of any other fineable only  
9 offense under Section 8.07(a)(4) or (5), Penal Code, but only if the  
10 conduct constituting the offense would not have been criminal if  
11 engaged in by an adult.

12           SECTION 18. Sections 51.03(a), (b), (e), and (f), Family  
13 Code, are amended to read as follows:

14           (a) Delinquent conduct is:

15                   (1) conduct, other than a traffic offense, that  
16 violates a penal law of this state or of the United States  
17 punishable by imprisonment or by confinement in jail;

18                   (2) conduct that violates a lawful order of a court  
19 under circumstances that would constitute contempt of that court  
20 in:

21                           (A) a justice or municipal court; [~~or~~]

22                           (B) a county court for conduct punishable only by  
23 a fine; or

24                           (C) a truancy court;

25                   (3) conduct that violates Section 49.04, 49.05, 49.06,  
26 49.07, or 49.08, Penal Code; or

27                   (4) conduct that violates Section 106.041, Alcoholic



1 Beverage Code, relating to driving under the influence of alcohol  
2 by a minor (third or subsequent offense).

3 (b) Conduct indicating a need for supervision is:

4 (1) subject to Subsection (f), conduct, other than a  
5 traffic offense, that violates:

6 (A) the penal laws of this state of the grade of  
7 misdemeanor that are punishable by fine only; or

8 (B) the penal ordinances of any political  
9 subdivision of this state;

10 (2) ~~[the absence of a child on 10 or more days or parts~~  
11 ~~of days within a six-month period in the same school year or on~~  
12 ~~three or more days or parts of days within a four-week period from~~  
13 ~~school];~~

14 ~~[(3)]~~ the voluntary absence of a child from the child's  
15 home without the consent of the child's parent or guardian for a  
16 substantial length of time or without intent to return;

17 (3) ~~[(4)]~~ conduct prohibited by city ordinance or by  
18 state law involving the inhalation of the fumes or vapors of paint  
19 and other protective coatings or glue and other adhesives and the  
20 volatile chemicals itemized in Section 485.001, Health and Safety  
21 Code;

22 (4) ~~[(5)]~~ an act that violates a school district's  
23 previously communicated written standards of student conduct for  
24 which the child has been expelled under Section 37.007(c),  
25 Education Code;

26 (5) ~~[(6)]~~ conduct that violates a reasonable and  
27 lawful order of a court entered under Section 264.305;

1           (6) [~~(7)~~] notwithstanding Subsection (a)(1), conduct  
2 described by Section 43.02(a)(1) or (2), Penal Code; or

3           (7) [~~(8)~~] notwithstanding Subsection (a)(1), conduct  
4 that violates Section 43.261, Penal Code.

5           (e) For the purposes of Subsection (b)(2) [~~(b)(3)~~], "child"  
6 does not include a person who is married, divorced, or widowed.

7           (f) Conduct [~~Except as provided by Subsection (g), conduct~~]  
8 described under Subsection (b)(1) does not constitute conduct  
9 indicating a need for supervision unless the child has been  
10 referred to the juvenile court under Section 51.08(b).

11           SECTION 19. Section 51.13(e), Family Code, is amended to  
12 read as follows:

13           (e) A finding that a child engaged in conduct indicating a  
14 need for supervision as described by Section 51.03(b)(7)  
15 [~~51.03(b)(8)~~] is a conviction only for the purposes of Sections  
16 43.261(c) and (d), Penal Code.

17           SECTION 20. Section 54.0404(a), Family Code, is amended to  
18 read as follows:

19           (a) If a child is found to have engaged in conduct  
20 indicating a need for supervision described by Section 51.03(b)(7)  
21 [~~51.03(b)(8)~~], the juvenile court may enter an order requiring the  
22 child to attend and successfully complete an educational program  
23 described by Section 37.218, Education Code, or another equivalent  
24 educational program.

25           SECTION 21. Section 54.05(b), Family Code, is amended to  
26 read as follows:

27           (b) Except for a commitment to the Texas Juvenile Justice

1 Department or to a post-adjudication secure correctional facility  
2 under Section 54.04011[~~, a disposition under Section 54.0402,~~] or a  
3 placement on determinate sentence probation under Section  
4 54.04(q), all dispositions automatically terminate when the child  
5 reaches the child's 18th birthday.

6 SECTION 22. Section 58.0022, Family Code, is amended to  
7 read as follows:

8 Sec. 58.0022. FINGERPRINTS OR PHOTOGRAPHS TO IDENTIFY  
9 RUNAWAYS. A law enforcement officer who takes a child into custody  
10 with probable cause to believe that the child has engaged in conduct  
11 indicating a need for supervision as described by Section  
12 51.03(b)(2) [~~51.03(b)(3)~~] and who after reasonable effort is unable  
13 to determine the identity of the child, may fingerprint or  
14 photograph the child to establish the child's identity. On  
15 determination of the child's identity or that the child cannot be  
16 identified by the fingerprints or photographs, the law enforcement  
17 officer shall immediately destroy all copies of the fingerprint  
18 records or photographs of the child.

19 SECTION 23. Section 58.003(c-3), Family Code, is amended to  
20 read as follows:

21 (c-3) Notwithstanding Subsections (a) and (c) and subject  
22 to Subsection (b), a juvenile court, on the court's own motion and  
23 without a hearing, shall order the sealing of records concerning a  
24 child found to have engaged in conduct indicating a need for  
25 supervision described by Section 51.03(b)(6) [~~51.03(b)(7)~~] or  
26 taken into custody to determine whether the child engaged in  
27 conduct indicating a need for supervision described by Section

1 51.03(b)(6) [~~51.03(b)(7)~~]. This subsection applies only to  
2 records related to conduct indicating a need for supervision  
3 described by Section 51.03(b)(6) [~~51.03(b)(7)~~].

4 SECTION 24. Section 58.106(a), Family Code, is amended to  
5 read as follows:

6 (a) Except as otherwise provided by this section,  
7 information contained in the juvenile justice information system is  
8 confidential information for the use of the department and may not  
9 be disseminated by the department except:

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

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

15 (3) to a juvenile justice agency;

16 (4) to the Texas Juvenile Justice Department [~~Youth~~  
17 ~~Commission and the Texas Juvenile Probation Commission~~] for  
18 analytical purposes;

19 (5) to the office of independent ombudsman of the  
20 Texas Juvenile Justice Department [~~Youth Commission~~]; and

21 (6) to a county, justice, or municipal court  
22 exercising jurisdiction over a juvenile [~~, including a court~~  
23 ~~exercising jurisdiction over a juvenile under Section 54.021~~].

24 SECTION 25. Section 59.003(a), Family Code, is amended to  
25 read as follows:

26 (a) Subject to Subsection (e), after a child's first  
27 commission of delinquent conduct or conduct indicating a need for

1 supervision, the probation department or prosecuting attorney may,  
2 or the juvenile court may, in a disposition hearing under Section  
3 54.04 or a modification hearing under Section 54.05, assign a child  
4 one of the following sanction levels according to the child's  
5 conduct:

6 (1) for conduct indicating a need for supervision,  
7 other than conduct described in Section 51.03(b)(3) or (4)  
8 [~~51.03(b)(4) or (5)~~] or a Class A or B misdemeanor, the sanction  
9 level is one;

10 (2) for conduct indicating a need for supervision  
11 under Section 51.03(b)(3) or (4) [~~51.03(b)(4) or (5)~~] or a Class A  
12 or B misdemeanor, other than a misdemeanor involving the use or  
13 possession of a firearm, or for delinquent conduct under Section  
14 51.03(a)(2), the sanction level is two;

15 (3) for a misdemeanor involving the use or possession  
16 of a firearm or for a state jail felony or a felony of the third  
17 degree, the sanction level is three;

18 (4) for a felony of the second degree, the sanction  
19 level is four;

20 (5) for a felony of the first degree, other than a  
21 felony involving the use of a deadly weapon or causing serious  
22 bodily injury, the sanction level is five;

23 (6) for a felony of the first degree involving the use  
24 of a deadly weapon or causing serious bodily injury, for an  
25 aggravated controlled substance felony, or for a capital felony,  
26 the sanction level is six; or

27 (7) for a felony of the first degree involving the use

1 of a deadly weapon or causing serious bodily injury, for an  
2 aggravated controlled substance felony, or for a capital felony, if  
3 the petition has been approved by a grand jury under Section 53.045,  
4 or if a petition to transfer the child to criminal court has been  
5 filed under Section 54.02, the sanction level is seven.

6 SECTION 26. Section 61.002(a), Family Code, is amended to  
7 read as follows:

8 (a) Except as provided by Subsection (b), this chapter  
9 applies to a proceeding to enter a juvenile court order:

10 (1) for payment of probation fees under Section  
11 54.061;

12 (2) for restitution under Sections 54.041(b) and  
13 54.048;

14 (3) for payment of graffiti eradication fees under  
15 Section 54.0461;

16 (4) for community service under Section 54.044(b);

17 (5) for payment of costs of court under Section  
18 54.0411 or other provisions of law;

19 (6) requiring the person to refrain from doing any act  
20 injurious to the welfare of the child under Section 54.041(a)(1);

21 (7) enjoining contact between the person and the child  
22 who is the subject of a proceeding under Section 54.041(a)(2);

23 (8) ordering a person living in the same household  
24 with the child to participate in counseling under Section  
25 54.041(a)(3);

26 (9) ~~requiring a parent or guardian of a child found to~~  
27 ~~be truant to participate in an available program addressing truancy~~

1 ~~under Section 54.041(f),~~

2           ~~(10)~~ requiring a parent or other eligible person to  
3 pay reasonable attorney's fees for representing the child under  
4 Section 51.10(e);

5           (10) ~~(11)~~ requiring the parent or other eligible  
6 person to reimburse the county for payments the county has made to  
7 an attorney appointed to represent the child under Section  
8 51.10(j);

9           (11) ~~(12)~~ requiring payment of deferred prosecution  
10 supervision fees under Section 53.03(d);

11           (12) ~~(13)~~ requiring a parent or other eligible  
12 person to attend a court hearing under Section 51.115;

13           (13) ~~(14)~~ requiring a parent or other eligible  
14 person to act or refrain from acting to aid the child in complying  
15 with conditions of release from detention under Section 54.01(r);

16           (14) ~~(15)~~ requiring a parent or other eligible  
17 person to act or refrain from acting under any law imposing an  
18 obligation of action or omission on a parent or other eligible  
19 person because of the parent's or person's relation to the child who  
20 is the subject of a proceeding under this title;

21           (15) ~~(16)~~ for payment of fees under Section 54.0462;  
22 or

23           (16) ~~(17)~~ for payment of the cost of attending an  
24 educational program under Section 54.0404.

25           SECTION 27. The Family Code is amended by adding Title 3A to  
26 read as follows:

1                   TITLE 3A. TRUANCY COURT PROCEEDINGS

2                   CHAPTER 65. TRUANCY COURT PROCEEDINGS

3                   SUBCHAPTER A. GENERAL PROVISIONS

4           Sec. 65.001. SCOPE AND PURPOSE. (a) This chapter details  
5 the procedures and proceedings in cases involving allegations of  
6 truant conduct.

7           (b) The purpose of this chapter is to encourage school  
8 attendance by creating simple civil judicial procedures through  
9 which children are held accountable for excessive school absences.

10          (c) The best interest of the child is the primary  
11 consideration in adjudicating truant conduct of the child.

12          Sec. 65.002. DEFINITIONS. In this chapter:

13           (1) "Child" means a person who is 12 years of age or  
14 older and younger than 19 years of age.

15           (2) "Juvenile court" means a court designated under  
16 Section 51.04 to exercise jurisdiction over proceedings under Title  
17 3.

18           (3) "Qualified telephone interpreter" means a  
19 telephone service that employs licensed court interpreters, as  
20 defined by Section 157.001, Government Code.

21           (4) "Truancy court" means a court designated under  
22 Section 65.004 to exercise jurisdiction over cases involving  
23 allegations of truant conduct.

24          Sec. 65.003. TRUANT CONDUCT. (a) A child engages in  
25 truant conduct if the child is required to attend school under  
26 Section 25.085, Education Code, and fails to attend school on 10 or  
27 more days or parts of days within a six-month period in the same



1 school year.

2 (b) Truant conduct may be prosecuted only as a civil case in  
3 a truancy court.

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

15 Sec. 65.004. TRUANCY COURTS; JURISDICTION. (a) The  
16 following are designated as truancy courts:

17 (1) in a county with a population of 1.75 million or  
18 more, the constitutional county court;

19 (2) justice courts; and

20 (3) municipal courts.

21 (b) A truancy court has exclusive original jurisdiction  
22 over cases involving allegations of truant conduct.

23 (c) A municipality may enter into an agreement with a  
24 contiguous municipality or a municipality with boundaries that are  
25 within one-half mile of the municipality seeking to enter into the  
26 agreement to establish concurrent jurisdiction of the municipal  
27 courts in the municipalities and provide original jurisdiction to a

1 municipal court in which a truancy case is brought as if the  
2 municipal court were located in the municipality in which the case  
3 arose.

4 (d) A truancy court retains jurisdiction over a person,  
5 without regard to the age of the person, who was referred to the  
6 court under Section 65.051 for engaging in truant conduct before  
7 the person's 19th birthday, until final disposition of the case.

8 Sec. 65.005. COURT SESSIONS. A truancy court is considered  
9 to be in session at all times.

10 Sec. 65.006. VENUE. Venue for a proceeding under this  
11 chapter is the county in which the school in which the child is  
12 enrolled is located or the county in which the child resides.

13 Sec. 65.007. RIGHT TO JURY TRIAL. (a) A child alleged to  
14 have engaged in truant conduct is entitled to a jury trial.

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

18 (c) There is no jury fee for a trial under this chapter.

19 Sec. 65.008. WAIVER OF RIGHTS. A right granted to a child  
20 by this chapter or by the constitution or laws of this state or the  
21 United States is waived in proceedings under this chapter if:

22 (1) the right is one that may be waived;

23 (2) the child and the child's parent or guardian are  
24 informed of the right, understand the right, understand the  
25 possible consequences of waiving the right, and understand that  
26 waiver of the right is not required;

27 (3) the child signs the waiver;

1           (4) the child's parent or guardian signs the waiver;  
2 and  
3           (5) the child's attorney signs the waiver, if the child  
4 is represented by counsel.

5           Sec. 65.009. EFFECT OF ADJUDICATION. (a) An adjudication  
6 of a child as having engaged in truant conduct is not a conviction  
7 of crime. An order of adjudication does not impose any civil  
8 disability ordinarily resulting from a conviction or operate to  
9 disqualify the child in any civil service application or  
10 appointment.

11           (b) The adjudication of a child as having engaged in truant  
12 conduct may not be used in any subsequent court proceedings, other  
13 than for the purposes of determining an appropriate remedial action  
14 under this chapter or in an appeal under this chapter.

15           Sec. 65.010. BURDEN OF PROOF. A court or jury may not  
16 return a finding that a child has engaged in truant conduct unless  
17 the state has proved the conduct beyond a reasonable doubt.

18           Sec. 65.011. APPLICABLE STATUTES REGARDING DISCOVERY.  
19 Discovery in a proceeding under this chapter is governed by Chapter  
20 39, Code of Criminal Procedure, other than Articles 39.14(i) and  
21 (j).

22           Sec. 65.012. PROCEDURAL RULES. The supreme court may  
23 promulgate rules of procedure applicable to proceedings under this  
24 chapter, including guidelines applicable to the informal  
25 disposition of truancy cases.

26           Sec. 65.013. INTERPRETERS. (a) When on the motion for  
27 appointment of an interpreter by a party or on the motion of the

1 court, in any proceeding under this chapter, the court determines  
2 that the child, the child's parent or guardian, or a witness does  
3 not understand and speak English, an interpreter must be sworn to  
4 interpret for the person. Articles 38.30(a), (b), and (c), Code of  
5 Criminal Procedure, apply in a proceeding under this chapter. A  
6 qualified telephone interpreter may be sworn to provide  
7 interpretation services if an interpreter is not available to  
8 appear in person before the court.

9 (b) In any proceeding under this chapter, if a party  
10 notifies the court that the child, the child's parent or guardian,  
11 or a witness is deaf, the court shall appoint a qualified  
12 interpreter to interpret the proceedings in any language, including  
13 sign language, that the deaf person can understand. Articles  
14 38.31(d), (e), (f), and (g), Code of Criminal Procedure, apply in a  
15 proceeding under this chapter.

16 Sec. 65.014. SIGNATURES. Any requirement under this  
17 chapter that a document be signed or that a document contain a  
18 person's signature, including the signature of a judge or a clerk of  
19 the court, is satisfied if the document contains the signature of  
20 the person as captured on an electronic device or as a digital  
21 signature.

22 Sec. 65.015. PUBLIC ACCESS TO COURT HEARINGS. (a) Except  
23 as provided by Subsection (b), a truancy court shall open a hearing  
24 under this chapter to the public unless the court, for good cause  
25 shown, determines that the public should be excluded.

26 (b) The court may prohibit a person from personally  
27 attending a hearing if the person is expected to testify at the

1 hearing and the court determines that the person's testimony would  
2 be materially affected if the person hears other testimony at the  
3 hearing.

4 Sec. 65.016. RECORDING OF PROCEEDINGS. (a) The  
5 proceedings in a truancy court that is not a court of record may not  
6 be recorded.

7 (b) The proceedings in a truancy court that is a court of  
8 record must be recorded by stenographic notes or by electronic,  
9 mechanical, or other appropriate means.

10 Sec. 65.017. JUVENILE CASE MANAGERS. A truancy court may  
11 employ a juvenile case manager in accordance with Article 45.056,  
12 Code of Criminal Procedure, to provide services to children who  
13 have been referred to the truancy court or who are in jeopardy of  
14 being referred to the truancy court.

15 SUBCHAPTER B. INITIAL PROCEDURES

16 Sec. 65.051. INITIAL REFERRAL TO TRUANCY COURT. When a  
17 truancy court receives a referral under Section 25.0915, Education  
18 Code, and the court is not required to dismiss the referral under  
19 that section, the court shall forward the referral to a truant  
20 conduct prosecutor who serves the court.

21 Sec. 65.052. TRUANT CONDUCT PROSECUTOR. In a justice or  
22 municipal court or a constitutional county court that is designated  
23 as a truancy court, the attorney who represents the state in  
24 criminal matters in that court shall serve as the truant conduct  
25 prosecutor.

26 Sec. 65.053. REVIEW BY PROSECUTOR. (a) The truant conduct  
27 prosecutor shall promptly review the facts described in a referral

1 received under Section 65.051.

2 (b) The prosecutor may, in the prosecutor's discretion,  
3 determine whether to file a petition with the truancy court  
4 requesting an adjudication of the child for truant conduct. If the  
5 prosecutor decides not to file a petition requesting an  
6 adjudication, the prosecutor shall inform the truancy court and the  
7 school district of the decision.

8 (c) The prosecutor may not file a petition for an  
9 adjudication of a child for truant conduct if the referral was not  
10 made in compliance with Section 25.0915, Education Code.

11 Sec. 65.054. STATE'S PETITION. (a) A petition for an  
12 adjudication of a child for truant conduct initiates an action of  
13 the state against a child who has allegedly engaged in truant  
14 conduct.

15 (b) The proceedings shall be styled "In the matter of  
16 \_\_\_\_\_ , Child," identifying the child by the child's  
17 initials only.

18 (c) The petition may be on information and belief.

19 (d) The petition must state:

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

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

24 (3) the names and residence addresses, if known, of at  
25 least one parent, guardian, or custodian of the child and of the  
26 child's spouse, if any; and

27 (4) if the child's parent, guardian, or custodian does

1 not reside or cannot be found in the state, or if their places of  
2 residence are unknown, the name and residence address of any known  
3 adult relative residing in the county or, if there is none, the name  
4 and residence address of the known adult relative residing nearest  
5 to the location of the court.

6 (e) Filing fees may not be charged for the filing of the  
7 state's petition.

8 Sec. 65.055. LIMITATIONS PERIOD. A petition may not be  
9 filed after the 45th day after the date of the last absence giving  
10 rise to the act of truant conduct.

11 Sec. 65.056. HEARING DATE. (a) After the petition has  
12 been filed, the truancy court shall set a date and time for an  
13 adjudication hearing.

14 (b) The hearing may not be held on or before the 10th day  
15 after the date the petition is filed.

16 Sec. 65.057. SUMMONS. (a) After setting the date and time  
17 of an adjudication hearing, the truancy court shall direct the  
18 issuance of a summons to:

- 19 (1) the child named in the petition;  
20 (2) the child's parent, guardian, or custodian;  
21 (3) the child's guardian ad litem, if any; and  
22 (4) any other person who appears to the court to be a  
23 proper or necessary party to the proceeding.

24 (b) The summons must require the persons served to appear  
25 before the court at the place, date, and time of the adjudication  
26 hearing to answer the allegations of the petition. A copy of the  
27 petition must accompany the summons. If a person, other than the

1 child, required to appear under this section fails to attend a  
2 hearing, the truancy court may proceed with the hearing.

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

6 (d) A party, other than the child, may waive service of  
7 summons by written stipulation or by voluntary appearance at the  
8 hearing.

9 Sec. 65.058. SERVICE OF SUMMONS. (a) If a person to be  
10 served with a summons is in this state and can be found, the summons  
11 shall be served on the person personally or by registered or  
12 certified mail, return receipt requested, at least five days before  
13 the date of the adjudication hearing.

14 (b) Service of the summons may be made by any suitable  
15 person under the direction of the court.

16 Sec. 65.059. REPRESENTATION BY ATTORNEY. (a) A child may be  
17 represented by an attorney in a case under this chapter.  
18 Representation by an attorney is not required.

19 (b) A child is not entitled to have an attorney appointed to  
20 represent the child, but the court may appoint an attorney if the  
21 court determines it is in the best interest of the child.

22 (c) The court may order a child's parent or other  
23 responsible person to pay for the cost of an attorney appointed  
24 under this section if the court determines that the person has  
25 sufficient financial resources.

26 Sec. 65.060. CHILD'S ANSWER. After the petition has been  
27 filed, the child may answer, orally or in writing, the petition at



1 or before the commencement of the hearing. If the child does not  
2 answer, a general denial of the alleged truant conduct is assumed.

3 Sec. 65.061. GUARDIAN AD LITEM. (a) If a child appears  
4 before the truancy court without a parent or guardian, or it appears  
5 to the court that the child's parent or guardian is incapable or  
6 unwilling to make decisions in the best interest of the child with  
7 respect to proceedings under this chapter, the court may appoint a  
8 guardian ad litem to protect the interests of the child in the  
9 proceedings.

10 (b) An attorney for a child may also be the child's guardian  
11 ad litem. A law enforcement officer, probation officer, or other  
12 employee of the truancy court may not be appointed as a guardian ad  
13 litem.

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

20 Sec. 65.062. ATTENDANCE AT HEARING. (a) The child must be  
21 personally present at the adjudication hearing. The truancy court  
22 may not proceed with the adjudication hearing in the absence of the  
23 child.

24 (b) A parent or guardian of a child and any court-appointed  
25 guardian ad litem of a child is required to attend the adjudication  
26 hearing.

27 (c) Subsection (b) does not apply to:

1           (1) a person for whom, for good cause shown, the court  
2 excuses attendance;

3           (2) a person who is not a resident of this state; or

4           (3) a parent of a child for whom a managing conservator  
5 has been appointed and the parent is not a conservator of the child.

6           Sec. 65.063. RIGHT TO REEMPLOYMENT. (a) An employer may  
7 not terminate the employment of a permanent employee because the  
8 employee is required under Section 65.062(b) to attend a hearing.

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

15           (c) A person who is injured because of a violation of this  
16 section is entitled to:

17           (1) reinstatement to the person's former position;

18           (2) damages not to exceed an amount equal to six times  
19 the amount of monthly compensation received by the person on the  
20 date of the hearing; and

21           (3) reasonable attorney's fees in an amount approved  
22 by the court.

23           (d) It is a defense to an action brought under this section  
24 that the employer's circumstances changed while the employee  
25 attended the hearing and caused reemployment to be impossible or  
26 unreasonable. To establish a defense under this subsection, an  
27 employer must prove that the termination of employment was because

1 of circumstances other than the employee's attendance at the  
2 hearing.

3 Sec. 65.064. SUBPOENA OF WITNESS. A witness may be  
4 subpoenaed in accordance with the procedures for the subpoena of a  
5 witness under the Code of Criminal Procedure.

6 Sec. 65.065. CHILD ALLEGED TO BE MENTALLY ILL. (a) A party  
7 may make a motion requesting that a petition alleging a child to  
8 have engaged in truant conduct be dismissed because the child has a  
9 mental illness, as defined by Section 571.003, Health and Safety  
10 Code. In response to the motion, the truancy court shall  
11 temporarily stay the proceedings to determine whether probable  
12 cause exists to believe the child has a mental illness. In making a  
13 determination, the court may:

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

16 (2) observe the child.

17 (b) If the court determines that probable cause exists to  
18 believe that the child has a mental illness, the court shall dismiss  
19 the petition. If the court determines that evidence does not exist  
20 to support a finding that the child has a mental illness, the court  
21 shall dissolve the stay and continue with the truancy court  
22 proceedings.

23 SUBCHAPTER C. ADJUDICATION HEARING AND REMEDIES

24 Sec. 65.101. ADJUDICATION HEARING; JUDGMENT. (a) A child  
25 may be found to have engaged in truant conduct only after an  
26 adjudication hearing conducted in accordance with the provisions of  
27 this chapter.

1        (b) At the beginning of the adjudication hearing, the judge  
2 of the truancy court shall explain to the child and the child's  
3 parent, guardian, or guardian ad litem:

4            (1) the allegations made against the child;

5            (2) the nature and possible consequences of the  
6 proceedings;

7            (3) the child's privilege against self-incrimination;

8            (4) the child's right to trial and to confrontation of  
9 witnesses;

10           (5) the child's right to representation by an attorney  
11 if the child is not already represented; and

12           (6) the child's right to a jury trial.

13        (c) Trial is by jury unless jury is waived in accordance  
14 with Section 65.008. Jury verdicts under this chapter must be  
15 unanimous.

16        (d) The Texas Rules of Evidence do not apply in a truancy  
17 proceeding under this chapter except:

18           (1) when the judge hearing the case determines that a  
19 particular rule of evidence applicable to criminal cases must be  
20 followed to ensure that the proceedings are fair to all parties; or

21           (2) as otherwise provided by this chapter.

22        (e) A child alleged to have engaged in truant conduct need  
23 not be a witness against nor otherwise incriminate himself or  
24 herself. An extrajudicial statement of the child that was obtained  
25 in violation of the constitution of this state or the United States  
26 may not be used in an adjudication hearing. A statement made by the  
27 child out of court is insufficient to support a finding of truant

1 conduct unless it is corroborated wholly or partly by other  
2 evidence.

3 (f) At the conclusion of the adjudication hearing, the court  
4 or jury shall find whether the child has engaged in truant conduct.  
5 The finding must be based on competent evidence admitted at the  
6 hearing. The child shall be presumed to have not engaged in truant  
7 conduct and no finding that a child has engaged in truant conduct  
8 may be returned unless the state has proved the conduct beyond a  
9 reasonable doubt. In all jury cases the jury will be instructed  
10 that the burden is on the state to prove that a child has engaged in  
11 truant conduct beyond a reasonable doubt.

12 (g) If the court or jury finds that the child did not engage  
13 in truant conduct, the court shall dismiss the case with prejudice.

14 (h) If the court or jury finds that the child did engage in  
15 truant conduct, the court shall proceed to issue a judgment finding  
16 the child has engaged in truant conduct and order the remedies the  
17 court finds appropriate under Section 65.103. The jury is not  
18 involved in ordering remedies for a child who has been adjudicated  
19 as having engaged in truant conduct.

20 Sec. 65.102. REMEDIAL ACTIONS. (a) The truancy court  
21 shall determine and order appropriate remedial actions in regard to  
22 a child who has been found to have engaged in truant conduct.

23 (b) The truancy court shall orally pronounce the court's  
24 remedial actions in the child's presence and enter those actions in  
25 a written order.

26 (c) After pronouncing the court's remedial actions, the  
27 court shall advise the child and the child's parent, guardian, or

1 guardian ad litem of:

2 (1) the child's right to appeal, as detailed in  
3 Subchapter D; and

4 (2) the procedures for the sealing of the child's  
5 records under Section 65.201.

6 Sec. 65.103. REMEDIAL ORDER. (a) A truancy court may  
7 enter a remedial order requiring a child who has been found to have  
8 engaged in truant conduct to:

9 (1) attend school without unexcused absences;

10 (2) attend a preparatory class for the high school  
11 equivalency examination administered under Section 7.111,  
12 Education Code, if the court determines that the individual is  
13 unlikely to do well in a formal classroom environment due to the  
14 individual's age;

15 (3) if the child is at least 16 years of age, take the  
16 high school equivalency examination administered under Section  
17 7.111, Education Code, if that is in the best interest of the child;

18 (4) attend a nonprofit, community-based special  
19 program that the court determines to be in the best interest of the  
20 child, including:

21 (A) an alcohol and drug abuse program;

22 (B) a rehabilitation program;

23 (C) a counseling program, including a  
24 self-improvement program;

25 (D) a program that provides training in  
26 self-esteem and leadership;

27 (E) a work and job skills training program;

1           (F) a program that provides training in  
2 parenting, including parental responsibility;

3           (G) a program that provides training in manners;

4           (H) a program that provides training in violence  
5 avoidance;

6           (I) a program that provides sensitivity  
7 training; and

8           (J) a program that provides training in advocacy  
9 and mentoring;

10           (5) complete not more than 50 hours of community  
11 service on a project acceptable to the court; and

12           (6) participate for a specified number of hours in a  
13 tutorial program covering the academic subjects in which the child  
14 is enrolled that are provided by the school the child attends.

15           (b) A truancy court may not order a child who has been found  
16 to have engaged in truant conduct to:

17           (1) attend a juvenile justice alternative education  
18 program, a boot camp, or a for-profit truancy class; or

19           (2) perform more than 16 hours of community service  
20 per week under this section.

21           (c) In addition to any other order authorized by this  
22 section, a truancy court may order the Department of Public Safety  
23 to suspend the driver's license or permit of a child who has been  
24 found to have engaged in truant conduct. If the child does not have  
25 a driver's license or permit, the court may order the Department of  
26 Public Safety to deny the issuance of a license or permit to the  
27 child. The period of the license or permit suspension or the order

1 that the issuance of a license or permit be denied may not extend  
2 beyond the maximum time period that a remedial order is effective as  
3 provided by Section 65.104.

4 Sec. 65.104. MAXIMUM TIME REMEDIAL ORDER IS EFFECTIVE. A  
5 truancy court's remedial order under Section 65.103 is effective  
6 until the later of:

7 (1) the date specified by the court in the order, which  
8 may not be later than the 180th day after the date the order is  
9 entered; or

10 (2) the last day of the school year in which the order  
11 was entered.

12 Sec. 65.105. ORDERS AFFECTING PARENTS AND OTHERS. (a) IF  
13 a child has been found to have engaged in truant conduct, the  
14 truancy court may:

15 (1) order the child and the child's parent to attend a  
16 class for students at risk of dropping out of school that is  
17 designed for both the child and the child's parent;

18 (2) order any person found by the court to have, by a  
19 wilful act or omission, contributed to, caused, or encouraged the  
20 child's truant conduct to do any act that the court determines to be  
21 reasonable and necessary for the welfare of the child or to refrain  
22 from doing any act that the court determines to be injurious to the  
23 child's welfare;

24 (3) enjoin all contact between the child and a person  
25 who is found to be a contributing cause of the child's truant  
26 conduct, unless that person is related to the child within the third  
27 degree by consanguinity or affinity, in which case the court may



1 contact the Department of Family and Protective Services, if  
2 necessary;

3 (4) after notice to, and a hearing with, all persons  
4 affected, order any person living in the same household with the  
5 child to participate in social or psychological counseling to  
6 assist in the child's rehabilitation;

7 (5) order the child's parent or other person  
8 responsible for the child's support to pay all or part of the  
9 reasonable costs of treatment programs in which the child is  
10 ordered to participate if the court finds the child's parent or  
11 person responsible for the child's support is able to pay the costs;

12 (6) order the child's parent to attend a program for  
13 parents of students with unexcused absences that provides  
14 instruction designed to assist those parents in identifying  
15 problems that contribute to the child's unexcused absences and in  
16 developing strategies for resolving those problems; and

17 (7) order the child's parent to perform not more than  
18 50 hours of community service with the child.

19 (b) A person subject to an order proposed under Subsection  
20 (a) is entitled to a hearing before the order is entered by the  
21 court.

22 (c) On a finding by the court that a child's parents have  
23 made a reasonable good faith effort to prevent the child from  
24 engaging in truant conduct and that, despite the parents' efforts,  
25 the child continues to engage in truant conduct, the court shall  
26 waive any requirement for community service that may be imposed on a  
27 parent under this section.

1       Sec. 65.106. LIABILITY FOR CLAIMS ARISING FROM COMMUNITY  
2 SERVICE. (a) A municipality or county that establishes a program  
3 to assist children and their parents in rendering community service  
4 under this subchapter may purchase an insurance policy protecting  
5 the municipality or county against a claim brought by a person other  
6 than the child or the child's parent for a cause of action that  
7 arises from an act of the child or parent while rendering the  
8 community service. The municipality or county is not liable for the  
9 claim to the extent that damages are recoverable under a contract of  
10 insurance or under a plan of self-insurance authorized by statute.

11       (b) The liability of the municipality or county for a claim  
12 that arises from an action of the child or the child's parent while  
13 rendering community service may not exceed \$100,000 to a single  
14 person and \$300,000 for a single occurrence in the case of personal  
15 injury or death, and \$10,000 for a single occurrence of property  
16 damage. Liability may not extend to punitive or exemplary damages.

17       (c) This section does not waive a defense, immunity, or  
18 jurisdictional bar available to the municipality or county or its  
19 officers or employees, nor shall this section be construed to  
20 wave, repeal, or modify any provision of Chapter 101, Civil  
21 Practice and Remedies Code.

22       Sec. 65.107. COURT COST. (a) If a child is found to have  
23 engaged in truant conduct, the truancy court, after giving the  
24 child, parent, or other person responsible for the child's support  
25 a reasonable opportunity to be heard, shall order the child,  
26 parent, or other person, if financially able to do so, to pay a  
27 court cost of \$50 to the clerk of the court.

1       (b) The court's order to pay the \$50 court cost is not  
2 effective unless the order is reduced to writing and signed by the  
3 judge. The written order to pay the court cost may be part of the  
4 court's order detailing the remedial actions in the case.

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

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

12       Sec. 65.108. HEARING TO MODIFY REMEDY. (a) A truancy  
13 court may hold a hearing to modify any remedy imposed by the court.  
14 A remedy may only be modified during the period the order is  
15 effective under Section 65.104.

16       (b) There is no right to a jury at a hearing under this  
17 section.

18       (c) A hearing to modify a remedy imposed by the court shall  
19 be held on the petition of the state, the court, or the child and the  
20 child's parent, guardian, guardian ad litem, or attorney.  
21 Reasonable notice of a hearing to modify disposition shall be given  
22 to all parties.

23       (d) Notwithstanding any other law, in considering a motion  
24 to modify a remedy imposed by the court, the truancy court may  
25 consider a written report from a school district official or  
26 employee, juvenile case manager, or professional consultant in  
27 addition to the testimony of witnesses. The court shall provide the

1 attorney for the child and the prosecuting attorney with access to  
2 all written matters to be considered by the court. The court may  
3 order counsel not to reveal items to the child or to the child's  
4 parent, guardian, or guardian ad litem if the disclosure would  
5 materially harm the treatment and rehabilitation of the child or  
6 would substantially decrease the likelihood of receiving  
7 information from the same or similar sources in the future.

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

13 Sec. 65.109. MOTION FOR NEW TRIAL. The order of a truancy  
14 court may be challenged by filing a motion for new trial. Rules  
15 505.3(c) and (e), Texas Rules of Civil Procedure, apply to a motion  
16 for new trial.

17 SUBCHAPTER D. APPEAL

18 Sec. 65.151. RIGHT TO APPEAL. (a) The child, the child's  
19 parent or guardian, or the state may appeal any order of a truancy  
20 court. A person subject to an order entered under Section 65.105  
21 may appeal that order.

22 (b) An appeal from a truancy court shall be to a juvenile  
23 court. The case must be tried de novo in the juvenile court. This  
24 chapter applies to the de novo trial in the juvenile court. On  
25 appeal, the judgment of the truancy court is vacated.

26 (c) A judgment of a juvenile court in a trial conducted  
27 under Subsection (b) may be appealed in the same manner as an appeal

1 under Chapter 56.

2 Sec. 65.152. GOVERNING LAW. Rule 506, Texas Rules of Civil  
3 Procedure, applies to the appeal of an order of a truancy court to a  
4 juvenile court in the same manner as the rule applies to an appeal  
5 of a judgment of a justice court to a county court, except an appeal  
6 bond is not required.

7 Sec. 65.153. COUNSEL ON APPEAL. (a) A child may be  
8 represented by counsel on appeal.

9 (b) If the child and the child's parent, guardian, or  
10 guardian ad litem request an appeal, the attorney who represented  
11 the child before the truancy court, if any, shall file a notice of  
12 appeal with the court that will hear the appeal and inform that  
13 court whether that attorney will handle the appeal.

14 (c) An appeal serves to vacate the order of the truancy  
15 court.

16 SUBCHAPTER E. RECORDS

17 Sec. 65.201. SEALING OF RECORDS. (a) A child who has been  
18 found to have engaged in truant conduct may apply, on or after the  
19 child's 18th birthday, to the truancy court that made the finding to  
20 seal the records relating to the allegation and finding of truant  
21 conduct held by:

- 22 (1) the court;  
23 (2) the truant conduct prosecutor; and  
24 (3) the school district.

25 (b) The application must include the following information  
26 or an explanation of why one or more of the following is not  
27 included:

1           (1) the child's:

2                   (A) full name;

3                   (B) sex;

4                   (C) race or ethnicity;

5                   (D) date of birth;

6                   (E) driver's license or identification card  
7 number; and

8                   (F) social security number;

9           (2) the dates on which the truant conduct was alleged  
10 to have occurred; and

11           (3) if known, the cause number assigned to the  
12 petition and the court and county in which the petition was filed.

13           (c) The truancy court shall order that the records be sealed  
14 after determining the child complied with the remedies ordered by  
15 the court in the case.

16           (d) All index references to the records of the truancy court  
17 that are ordered sealed shall be deleted not later than the 30th day  
18 after the date of the sealing order.

19           (e) A truancy court, clerk of the court, truant conduct  
20 prosecutor, or school district shall reply to a request for  
21 information concerning a child's sealed truant conduct case that no  
22 record exists with respect to the child.

23           (f) Inspection of the sealed records may be permitted by an  
24 order of the truancy court on the petition of the person who is the  
25 subject of the records and only by those persons named in the order.

26           (g) A person whose records have been sealed under this  
27 section is not required in any proceeding or in any application for

1 employment, information, or licensing to state that the person has  
2 been the subject of a proceeding under this chapter. Any statement  
3 that the person has never been found to have engaged in truant  
4 conduct may not be held against the person in any criminal or civil  
5 proceeding.

6 (h) On or after the fifth anniversary of a child's 16th  
7 birthday, on the motion of the child or on the truancy court's own  
8 motion, the truancy court may order the destruction of the child's  
9 records that have been sealed under this section if the child has  
10 not been convicted of a felony.

11 Sec. 65.202. CONFIDENTIALITY OF RECORDS. Records and files  
12 created under this chapter may be disclosed only to:

13 (1) the judge of the truancy court, the truant conduct  
14 prosecutor, and the staff of the judge and prosecutor;

15 (2) the child or an attorney for the child;

16 (3) a governmental agency if the disclosure is  
17 required or authorized by law;

18 (4) a person or entity to whom the child is referred  
19 for treatment or services if the agency or institution disclosing  
20 the information has entered into a written confidentiality  
21 agreement with the person or entity regarding the protection of the  
22 disclosed information;

23 (5) the Texas Department of Criminal Justice and the  
24 Texas Juvenile Justice Department for the purpose of maintaining  
25 statistical records of recidivism and for diagnosis and  
26 classification;

27 (6) the agency; or

1           (7) with leave of the truancy court, any other person,  
2 agency, or institution having a legitimate interest in the  
3 proceeding or in the work of the court.

4           Sec. 65.203. DESTRUCTION OF CERTAIN RECORDS. A truancy  
5 court shall order the destruction of records relating to  
6 allegations of truant conduct that are held by the court or by the  
7 prosecutor if a prosecutor decides not to file a petition for an  
8 adjudication of truant conduct after a review of the referral under  
9 Section 65.053.

10           SUBCHAPTER F. ENFORCEMENT OF ORDERS

11           Sec. 65.251. FAILURE TO OBEY TRUANCY COURT ORDER; CHILD IN  
12 CONTEMPT OF COURT. (a) If a child fails to obey an order issued by  
13 a truancy court under Section 65.103(a) or a child is in direct  
14 contempt of court, the truancy court, after providing notice and an  
15 opportunity for a hearing, may hold the child in contempt of court  
16 and order either or both of the following:

17                   (1) that the child pay a fine not to exceed \$100; or

18                   (2) that the Department of Public Safety suspend the  
19 child's driver's license or permit or, if the child does not have a  
20 license or permit, order that the Department of Public Safety deny  
21 the issuance of a license or permit to the child until the child  
22 fully complies with the court's orders.

23           (b) If a child fails to obey an order issued by a truancy  
24 court under Section 65.103(a) or a child is in direct contempt of  
25 court and the child has failed to obey an order or has been found in  
26 direct contempt of court on two or more previous occasions, the  
27 truancy court, after providing notice and an opportunity for a



1 hearing, may refer the child to the juvenile probation department  
2 as a request for truancy intervention, unless the child failed to  
3 obey the truancy court order or was in direct contempt of court  
4 while 17 years of age or older.

5 (c) On referral of the child to the juvenile probation  
6 department, the truancy court shall provide to the juvenile  
7 probation department:

8 (1) documentation of all truancy prevention measures  
9 taken by the originating school district;

10 (2) documentation of all truancy orders for each of  
11 the child's previous truancy referrals, including:

12 (A) court remedies and documentation of the  
13 child's failure to comply with the truancy court's orders, if  
14 applicable, demonstrating all interventions that were exhausted by  
15 the truancy court; and

16 (B) documentation describing the child's direct  
17 contempt of court, if applicable;

18 (3) the name, birth date, and last known address of the  
19 child and the school in which the child is enrolled; and

20 (4) the name and last known address of the child's  
21 parent or guardian.

22 (d) The juvenile probation department may, on review of  
23 information provided under Subsection (c):

24 (1) offer further remedies related to the local plan  
25 for truancy intervention strategies adopted under Section 25.0916,  
26 Education Code; or

27 (2) refer the child to a juvenile court for a hearing

1 to be conducted under Section 65.252.

2 (e) A truancy court may not order the confinement of a child  
3 for the child's failure to obey an order of the court issued under  
4 Section 65.103(a).

5 Sec. 65.252. PROCEEDINGS IN JUVENILE COURT. (a) After a  
6 referral by the local juvenile probation department, the juvenile  
7 court prosecutor shall determine if probable cause exists to  
8 believe that the child engaged in direct contempt of court or failed  
9 to obey an order of the truancy court under circumstances that would  
10 constitute contempt of court. On a finding that probable cause  
11 exists, the prosecutor shall determine whether to request an  
12 adjudication. Not later than the 20th day after the date the  
13 juvenile court receives a request for adjudication from the  
14 prosecutor, the juvenile court shall conduct a hearing to determine  
15 if the child engaged in conduct that constitutes contempt of the  
16 order issued by the truancy court or engaged in direct contempt of  
17 court.

18 (b) If the juvenile court finds that the child engaged in  
19 conduct that constitutes contempt of the order issued by the  
20 truancy court or direct contempt of court, the juvenile court  
21 shall:

22 (1) enter an order requiring the child to comply with  
23 the truancy court's order;

24 (2) forward a copy of the order to the truancy court  
25 within five days; and

26 (3) admonish the child, orally and in writing, of the  
27 consequences of subsequent referrals to the juvenile court,

1 including:

2 (A) a possible charge of delinquent conduct for  
3 contempt of the truancy court's order or direct contempt of court;  
4 and

5 (B) a possible detention hearing.

6 (c) If the juvenile court prosecutor finds that probable  
7 cause does not exist to believe that the child engaged in direct  
8 contempt or in conduct that constitutes contempt of the order  
9 issued by the truancy court, or if the juvenile probation  
10 department finds that extenuating circumstances caused the  
11 original truancy referral, the juvenile court shall enter an order  
12 requiring the child's continued compliance with the truancy court's  
13 order and notify the truancy court not later than the fifth day  
14 after the date the order is entered.

15 (d) This section does not limit the discretion of a juvenile  
16 prosecutor or juvenile court to prosecute a child for conduct under  
17 Section 51.03.

18 Sec. 65.253. PARENT OR OTHER PERSON IN CONTEMPT OF COURT.

19 (a) A truancy court may enforce the following orders by contempt:

20 (1) an order that a parent of a child, guardian of a  
21 child, or any court-appointed guardian ad litem of a child attend an  
22 adjudication hearing under Section 65.062(b);

23 (2) an order requiring a person other than a child to  
24 take a particular action under Section 65.105(a);

25 (3) an order that a child's parent, or other person  
26 responsible to support the child, reimburse the municipality or  
27 county for the cost of the guardian ad litem appointed for the child

1 under Section 65.061(c); and

2 (4) an order that a parent, or person other than the  
3 child, pay the \$50 court cost under Section 65.107.

4 (b) A truancy court may find a parent or person other than  
5 the child in direct contempt of the court.

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

8 (d) In addition to the assessment of a fine under Subsection  
9 (c), direct contempt of the truancy court by a parent or person  
10 other than the child is punishable by:

11 (1) confinement in jail for a maximum of three days;

12 (2) a maximum of 40 hours of community service; or

13 (3) both confinement and community service.

14 Sec. 65.254. WRIT OF ATTACHMENT. A truancy court may issue  
15 a writ of attachment for a person who violates an order entered  
16 under Section 65.057(c). The writ of attachment is executed in the  
17 same manner as in a criminal proceeding as provided by Chapter 24,  
18 Code of Criminal Procedure.

19 Sec. 65.255. ENTRY OF TRUANCY COURT ORDER AGAINST PARENT OR  
20 OTHER ELIGIBLE PERSON. (a) The truancy court shall:

21 (1) provide notice to a person who is the subject of a  
22 proposed truancy court order under Section 65.253; and

23 (2) provide a sufficient opportunity for the person to  
24 be heard regarding the proposed order.

25 (b) A truancy court order under Section 65.253 must be in  
26 writing and a copy promptly furnished to the parent or other  
27 eligible person.

1       (c) The truancy court may require the parent or other  
2 eligible person to provide suitable identification to be included  
3 in the court's file. Suitable identification includes  
4 fingerprints, a driver's license number, a social security number,  
5 or similar indicia of identity.

6       Sec. 65.256. APPEAL. (a) The parent or other eligible  
7 person against whom a final truancy court order has been entered  
8 under Section 65.253 may appeal as provided by law from judgments  
9 entered by a justice court in civil cases.

10       (b) Rule 506, Texas Rules of Civil Procedure, applies to an  
11 appeal under this section, except an appeal bond is not required.

12       (c) The pendency of an appeal initiated under this section  
13 does not abate or otherwise affect the proceedings in the truancy  
14 court involving the child.

15       Sec. 65.257. MOTION FOR ENFORCEMENT. (a) The state may  
16 initiate enforcement of a truancy court order under Section 65.253  
17 against a parent or person other than the child by filing a written  
18 motion. In ordinary and concise language, the motion must:

19               (1) identify the provision of the order allegedly  
20 violated and sought to be enforced;

21               (2) state specifically and factually the manner of the  
22 person's alleged noncompliance;

23               (3) state the relief requested; and

24               (4) contain the signature of the party filing the  
25 motion.

26       (b) The state must allege the particular violation by the  
27 person of the truancy court order that the state had a reasonable

1 basis for believing the person was violating when the motion was  
2 filed.

3 (c) The truancy court may also initiate enforcement of an  
4 order under this section on its own motion.

5 Sec. 65.258. NOTICE AND APPEARANCE. (a) On the filing of a  
6 motion for enforcement, the truancy court shall by written notice  
7 set the date, time, and place of the hearing and order the person  
8 against whom enforcement is sought to appear and respond to the  
9 motion.

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

15 (c) If a person moves to strike or specially excepts to the  
16 motion for enforcement, the truancy court shall rule on the  
17 exception or motion to strike before the court hears evidence on the  
18 motion for enforcement. If an exception is sustained, the court  
19 shall give the movant an opportunity to replead and continue the  
20 hearing to a designated date and time without the requirement of  
21 additional service.

22 (d) If a person who has been personally served with notice  
23 to appear at the hearing does not appear, the truancy court may not  
24 hold the person in contempt, but may issue a warrant for the arrest  
25 of the person.

26 Sec. 65.259. CONDUCT OF ENFORCEMENT HEARING. (a) The  
27 movant must prove beyond a reasonable doubt that the person against

1 whom enforcement is sought engaged in conduct constituting contempt  
2 of a reasonable and lawful court order as alleged in the motion for  
3 enforcement.

4 (b) The person against whom enforcement is sought has a  
5 privilege not to be called as a witness or otherwise to incriminate  
6 himself or herself.

7 (c) The truancy court shall conduct the enforcement hearing  
8 without a jury.

9 (d) The truancy court shall include in the court's judgment:

10 (1) findings for each violation alleged in the motion  
11 for enforcement; and

12 (2) the punishment, if any, to be imposed.

13 (e) If the person against whom enforcement is sought was not  
14 represented by counsel during any previous court proceeding  
15 involving a motion for enforcement, the person may, through  
16 counsel, raise any defense or affirmative defense to the proceeding  
17 that could have been asserted in the previous court proceeding that  
18 was not asserted because the person was not represented by counsel.

19 (f) It is an affirmative defense to enforcement of a truancy  
20 court order under Section 65.253 that the court did not provide the  
21 parent or other eligible person with due process of law in the  
22 proceeding in which the court entered the order.

23 SECTION 28. Section 264.304(c), Family Code, is amended to  
24 read as follows:

25 (c) The court shall determine that the child is an at-risk  
26 child if the court finds that the child has engaged in the following  
27 conduct:

1 (1) conduct, other than a traffic offense and except  
2 as provided by Subsection (d), that violates:

3 (A) the penal laws of this state; or

4 (B) the penal ordinances of any political  
5 subdivision of this state;

6 (2) the unexcused voluntary absence of the child on 10  
7 or more days or parts of days within a six-month period [~~or three or~~  
8 ~~more days or parts of days within a four-week period~~] from school  
9 without the consent of the child's parent, managing conservator, or  
10 guardian;

11 (3) the voluntary absence of the child from the child's  
12 home without the consent of the child's parent, managing  
13 conservator, or guardian for a substantial length of time or  
14 without intent to return;

15 (4) conduct that violates the laws of this state  
16 prohibiting driving while intoxicated or under the influence of  
17 intoxicating liquor (first or second offense) or driving while  
18 under the influence of any narcotic drug or of any other drug to a  
19 degree that renders the child incapable of safely driving a vehicle  
20 (first or second offense); or

21 (5) conduct that evidences a clear and substantial  
22 intent to engage in any behavior described by Subdivisions (1)-(4).

23 SECTION 29. Section 26.045(d), Government Code, is amended  
24 to read as follows:

25 (d) A county court in a county with a population of 1.75  
26 million or more has original jurisdiction over cases alleging a  
27 violation of Section 25.093 [~~or 25.094~~], Education Code, or



1 alleging truant conduct under Section 65.003(a), Family Code.

2 SECTION 30. Section 29.003(i), Government Code, is amended  
3 to read as follows:

4 (i) A municipality may enter into an agreement with a  
5 contiguous municipality or a municipality with boundaries that are  
6 within one-half mile of the municipality seeking to enter into the  
7 agreement to establish concurrent jurisdiction of the municipal  
8 courts in the municipalities and provide original jurisdiction to a  
9 municipal court in which a case is brought as if the municipal court  
10 were located in the municipality in which the case arose, for:

11 (1) all cases in which either municipality has  
12 jurisdiction under Subsection (a); and

13 (2) cases that arise under Section 821.022, Health and  
14 Safety Code, or Section 65.003(a) [~~25.094~~], Family [~~Education~~]  
15 Code.

16 SECTION 31. Subtitle B, Title 2, Government Code, is  
17 amended by adding Chapter 36 to read as follows:

18 CHAPTER 36. JUDICIAL DONATION TRUST FUNDS

19 Sec. 36.001. ESTABLISHMENT OF TRUST FUNDS. (a) The  
20 governing body of a municipality or the commissioners court of a  
21 county may establish a judicial donation trust fund as a separate  
22 account held outside the municipal or county treasury to be used in  
23 accordance with this chapter.

24 (b) The governing body of a municipality or the  
25 commissioners court of a county may accept a gift, grant, donation,  
26 or other consideration from a public or private source that is  
27 designated for the judicial donation trust fund.

1 (c) Money received under Subsection (b) shall be deposited  
2 in the judicial donation trust fund and may only be disbursed in  
3 accordance with this chapter.

4 (d) Interest and income from the assets of the judicial  
5 donation trust fund shall be credited to and deposited in the trust  
6 fund.

7 Sec. 36.002. PROCEDURES AND ELIGIBILITY. The governing  
8 body of a municipality or the commissioners court of a county shall:

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

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

18 Sec. 36.003. USE OF FUNDS IN ACCOUNT. (a) The judge of a  
19 county, justice, or municipal court, in accordance with Section  
20 36.002, may award money from a judicial donation trust fund  
21 established under Section 36.001 to eligible children or families  
22 who appear before the court for a truancy or curfew violation or in  
23 another misdemeanor offense proceeding before the court.

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

27 SECTION 32. Section 54.1172(a), Government Code, is amended

1 to read as follows:

2 (a) The county judge may appoint one or more part-time or  
3 full-time magistrates to hear a matter alleging a violation of  
4 Section 25.093 [~~or 25.094~~], Education Code, or alleging truant  
5 conduct under Section 65.003(a), Family Code.

6 SECTION 33. Section 54.1952(a), Government Code, is amended  
7 to read as follows:

8 (a) The county judge may appoint one or more part-time or  
9 full-time magistrates to hear a matter alleging a violation of  
10 Section 25.093 [~~or 25.094~~], Education Code, or alleging truant  
11 conduct under Section 65.003(a), Family Code, referred to the  
12 magistrate by a court having jurisdiction over the matter.

13 SECTION 34. Section 54.1955, Government Code, is amended to  
14 read as follows:

15 Sec. 54.1955. POWERS. (a) Except as limited by an order of  
16 the county judge, a magistrate appointed under this subchapter may:

- 17 (1) conduct hearings;
- 18 (2) hear evidence;
- 19 (3) issue summons for the appearance of witnesses;
- 20 (4) examine witnesses;
- 21 (5) swear witnesses for hearings;
- 22 (6) recommend rulings or orders or a judgment in a  
23 case;
- 24 (7) regulate proceedings in a hearing;
- 25 (8) accept a plea of guilty or nolo contendere in a  
26 case alleging a violation of Section 25.093 [~~or 25.094~~], Education  
27 Code, and assess a fine or court costs or order community service in

1 satisfaction of a fine or costs in accordance with Article 45.049,  
2 Code of Criminal Procedure;

3 (9) for a violation of Section 25.093, Education Code,  
4 enter an order suspending a sentence or deferring a final  
5 disposition that includes at least one of the requirements listed  
6 in Article 45.051, Code of Criminal Procedure;

7 (10) for an uncontested adjudication of truant conduct  
8 under Section 65.003, Family Code, accept a plea to the petition or  
9 a stipulation of evidence, and take any other action authorized  
10 under Chapter 65, Family Code; and

11 (11) perform any act and take any measure necessary  
12 and proper for the efficient performance of the duties required by  
13 the referral order, including the entry of an order that includes at  
14 least one of the remedial options [~~requirements~~] in Section 65.103,  
15 Family Code [~~Article 45.054, Code of Criminal Procedure,~~ and

16 [~~(11) if the magistrate finds that a child as defined~~  
17 ~~by Article 45.058, Code of Criminal Procedure, has violated an~~  
18 ~~order under Article 45.054, Code of Criminal Procedure, proceed as~~  
19 ~~authorized by Article 45.050, Code of Criminal Procedure].~~

20 (b) With respect to an issue of law or fact the ruling on  
21 which could result in the dismissal of a prosecution under Section  
22 25.093 [~~or 25.094~~], Education Code, or a case of truant conduct  
23 under Section 65.003, Family Code, a magistrate may not rule on the  
24 issue but may make findings, conclusions, and recommendations on  
25 the issue.

26 SECTION 35. Section 54.1956, Government Code, is amended to  
27 read as follows:

1           Sec. 54.1956. NOT GUILTY PLEA ENTERED OR DENIAL OF ALLEGED  
2 CONDUCT. (a) On entry of a not guilty plea for a violation of  
3 Section 25.093, Education Code, the magistrate shall refer the case  
4 back to the referring court for all further pretrial proceedings  
5 and a full trial on the merits before the court or a jury.

6           (b) On denial by a child of truant conduct, as defined by  
7 Section 65.003(a), Family Code, the magistrate shall refer the case  
8 to the appropriate truancy court for adjudication.

9           SECTION 36. Section 71.0352, Government Code, is amended to  
10 read as follows:

11           Sec. 71.0352. JUVENILE DATA [~~DATE~~]: JUSTICE, MUNICIPAL,  
12 AND TRUANCY [~~JUVENILE~~] COURTS. As a component of the official  
13 monthly report submitted to the Office of Court Administration of  
14 the Texas Judicial System:

15           (1) a justice court, [and] municipal court, or truancy  
16 court [courts] shall report the number of cases filed for [~~the~~  
17 ~~following offenses~~]:

18           (A) truant conduct under Section 65.003(a),  
19 Family Code [~~failure to attend school under Section 25.094,~~  
20 ~~Education Code~~];

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

23           (C) a violation of a local daytime curfew  
24 ordinance adopted under Section 341.905 or 351.903, Local  
25 Government Code; and

26           (2) in cases in which a child fails to obey an order of  
27 a justice court, [or] municipal court, or truancy court under

1 circumstances that would constitute contempt of court, the justice  
2 court, ~~or~~ municipal court, or truancy court shall report the  
3 number of incidents in which the child is:

4 (A) referred to the appropriate juvenile court  
5 for delinquent conduct as provided by Article 45.050(c)(1), Code of  
6 Criminal Procedure, or ~~and~~ Section 65.251 ~~[51.03(a)(2)]~~, Family  
7 Code; or

8 (B) held in contempt, fined, or denied driving  
9 privileges as provided by Article 45.050(c)(2), Code of Criminal  
10 Procedure, or Section 65.251, Family Code.

11 SECTION 37. Section 102.021, Government Code, is amended to  
12 read as follows:

13 Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL  
14 PROCEDURE. A person convicted of an offense shall pay the following  
15 under the Code of Criminal Procedure, in addition to all other  
16 costs:

17 (1) court cost on conviction of any offense, other  
18 than a conviction of an offense relating to a pedestrian or the  
19 parking of a motor vehicle (Art. 102.0045, Code of Criminal  
20 Procedure) . . . \$4;

21 (2) a fee for services of prosecutor (Art. 102.008,  
22 Code of Criminal Procedure) . . . \$25;

23 (3) fees for services of peace officer:

24 (A) issuing a written notice to appear in court  
25 for certain violations (Art. 102.011, Code of Criminal Procedure)  
26 . . . \$5;

27 (B) executing or processing an issued arrest

- 1 warrant, capias, or capias pro fine (Art. 102.011, Code of Criminal  
2 Procedure) . . . \$50;
- 3 (C) summoning a witness (Art. 102.011, Code of  
4 Criminal Procedure) . . . \$5;
- 5 (D) serving a writ not otherwise listed (Art.  
6 102.011, Code of Criminal Procedure) . . . \$35;
- 7 (E) taking and approving a bond and, if  
8 necessary, returning the bond to courthouse (Art. 102.011, Code of  
9 Criminal Procedure) . . . \$10;
- 10 (F) commitment or release (Art. 102.011, Code of  
11 Criminal Procedure) . . . \$5;
- 12 (G) summoning a jury (Art. 102.011, Code of  
13 Criminal Procedure) . . . \$5;
- 14 (H) attendance of a prisoner in habeas corpus  
15 case if prisoner has been remanded to custody or held to bail (Art.  
16 102.011, Code of Criminal Procedure) . . . \$8 each day;
- 17 (I) mileage for certain services performed (Art.  
18 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and
- 19 (J) services of a sheriff or constable who serves  
20 process and attends examining trial in certain cases (Art. 102.011,  
21 Code of Criminal Procedure) . . . not to exceed \$5;
- 22 (4) services of a peace officer in conveying a witness  
23 outside the county (Art. 102.011, Code of Criminal Procedure) . . .  
24 \$10 per day or part of a day, plus actual necessary travel expenses;
- 25 (5) overtime of peace officer for time spent  
26 testifying in the trial or traveling to or from testifying in the  
27 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

- 1           (6) court costs on an offense relating to rules of the  
2 road, when offense occurs within a school crossing zone (Art.  
3 102.014, Code of Criminal Procedure) . . . \$25;
- 4           (7) court costs on an offense of passing a school bus  
5 (Art. 102.014, Code of Criminal Procedure) . . . \$25;
- 6           (8) court costs on an offense of parent contributing  
7 to student nonattendance [~~truancy or contributing to truancy~~] (Art.  
8 102.014, Code of Criminal Procedure) . . . \$20;
- 9           (9) cost for visual recording of intoxication arrest  
10 before conviction (Art. 102.018, Code of Criminal Procedure) . . .  
11 \$15;
- 12           (10) cost of certain evaluations (Art. 102.018, Code  
13 of Criminal Procedure) . . . actual cost;
- 14           (11) additional costs attendant to certain  
15 intoxication convictions under Chapter 49, Penal Code, for  
16 emergency medical services, trauma facilities, and trauma care  
17 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;
- 18           (12) additional costs attendant to certain child  
19 sexual assault and related convictions, for child abuse prevention  
20 programs (Art. 102.0186, Code of Criminal Procedure) . . . \$100;
- 21           (13) court cost for DNA testing for certain felonies  
22 (Art. 102.020(a)(1), Code of Criminal Procedure) . . . \$250;
- 23           (14) court cost for DNA testing for the offense of  
24 public lewdness or indecent exposure (Art. 102.020(a)(2), Code of  
25 Criminal Procedure) . . . \$50;
- 26           (15) court cost for DNA testing for certain felonies  
27 (Art. 102.020(a)(3), Code of Criminal Procedure) . . . \$34;



1           (16) if required by the court, a restitution fee for  
2 costs incurred in collecting restitution installments and for the  
3 compensation to victims of crime fund (Art. 42.037, Code of  
4 Criminal Procedure) . . . \$12;

5           (17) if directed by the justice of the peace or  
6 municipal court judge hearing the case, court costs on conviction  
7 in a criminal action (Art. 45.041, Code of Criminal Procedure)  
8 . . . part or all of the costs as directed by the judge; and

9           (18) costs attendant to convictions under Chapter 49,  
10 Penal Code, and under Chapter 481, Health and Safety Code, to help  
11 fund drug court programs established under Chapter 122, 123, 124,  
12 or 125, Government Code, or former law (Art. 102.0178, Code of  
13 Criminal Procedure) . . . \$60.

14           SECTION 38. Section 103.021, Government Code, is amended to  
15 read as follows:

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

21           (1) a personal bond fee (Art. 17.42, Code of Criminal  
22 Procedure) . . . the greater of \$20 or three percent of the amount  
23 of the bail fixed for the accused;

24           (2) cost of electronic monitoring as a condition of  
25 release on personal bond (Art. 17.43, Code of Criminal Procedure)  
26 . . . actual cost;

27           (3) a fee for verification of and monitoring of motor

1 vehicle ignition interlock (Art. 17.441, Code of Criminal  
2 Procedure) . . . not to exceed \$10;

3 (3-a) costs associated with operating a global  
4 positioning monitoring system as a condition of release on bond  
5 (Art. 17.49(b)(2), Code of Criminal Procedure) . . . actual costs,  
6 subject to a determination of indigency;

7 (3-b) costs associated with providing a defendant's  
8 victim with an electronic receptor device as a condition of the  
9 defendant's release on bond (Art. 17.49(b)(3), Code of Criminal  
10 Procedure) . . . actual costs, subject to a determination of  
11 indigency;

12 (4) repayment of reward paid by a crime stoppers  
13 organization on conviction of a felony (Art. 37.073, Code of  
14 Criminal Procedure) . . . amount ordered;

15 (5) reimbursement to general revenue fund for payments  
16 made to victim of an offense as condition of community supervision  
17 (Art. 42.12, Code of Criminal Procedure) . . . not to exceed \$50 for  
18 a misdemeanor offense or \$100 for a felony offense;

19 (6) payment to a crime stoppers organization as  
20 condition of community supervision (Art. 42.12, Code of Criminal  
21 Procedure) . . . not to exceed \$50;

22 (7) children's advocacy center fee (Art. 42.12, Code  
23 of Criminal Procedure) . . . not to exceed \$50;

24 (8) family violence center fee (Art. 42.12, Code of  
25 Criminal Procedure) . . . \$100;

26 (9) community supervision fee (Art. 42.12, Code of  
27 Criminal Procedure) . . . not less than \$25 or more than \$60 per

1 month;

2           (10) additional community supervision fee for certain  
3 offenses (Art. 42.12, Code of Criminal Procedure) . . . \$5 per  
4 month;

5           (11) for certain financially able sex offenders as a  
6 condition of community supervision, the costs of treatment,  
7 specialized supervision, or rehabilitation (Art. 42.12, Code of  
8 Criminal Procedure) . . . all or part of the reasonable and  
9 necessary costs of the treatment, supervision, or rehabilitation as  
10 determined by the judge;

11           (12) fee for failure to appear for trial in a justice  
12 or municipal court if a jury trial is not waived (Art. 45.026, Code  
13 of Criminal Procedure) . . . costs incurred for impaneling the  
14 jury;

15           (13) costs of certain testing, assessments, or  
16 programs during a deferral period (Art. 45.051, Code of Criminal  
17 Procedure) . . . amount ordered;

18           (14) special expense on dismissal of certain  
19 misdemeanor complaints (Art. 45.051, Code of Criminal Procedure)  
20 . . . not to exceed amount of fine assessed;

21           (15) an additional fee:

22                   (A) for a copy of the defendant's driving record  
23 to be requested from the Department of Public Safety by the judge  
24 (Art. 45.0511(c-1), Code of Criminal Procedure) . . . amount equal  
25 to the sum of the fee established by Section 521.048,  
26 Transportation Code, and the state electronic Internet portal fee;

27                   (B) as an administrative fee for requesting a

1 driving safety course or a course under the motorcycle operator  
2 training and safety program for certain traffic offenses to cover  
3 the cost of administering the article (Art. 45.0511(f)(1), Code of  
4 Criminal Procedure) . . . not to exceed \$10; or

5 (C) for requesting a driving safety course or a  
6 course under the motorcycle operator training and safety program  
7 before the final disposition of the case (Art. 45.0511(f)(2), Code  
8 of Criminal Procedure) . . . not to exceed the maximum amount of the  
9 fine for the offense committed by the defendant;

10 (16) a request fee for teen court program (Art.  
11 45.052, Code of Criminal Procedure) . . . \$20, if the court  
12 ordering the fee is located in the Texas-Louisiana border region,  
13 but otherwise not to exceed \$10;

14 (17) a fee to cover costs of required duties of teen  
15 court (Art. 45.052, Code of Criminal Procedure) . . . \$20, if the  
16 court ordering the fee is located in the Texas-Louisiana border  
17 region, but otherwise \$10;

18 (18) a mileage fee for officer performing certain  
19 services (Art. 102.001, Code of Criminal Procedure) . . . \$0.15 per  
20 mile;

21 (19) certified mailing of notice of hearing date (Art.  
22 102.006, Code of Criminal Procedure) . . . \$1, plus postage;

23 (20) certified mailing of certified copies of an order  
24 of expunction (Art. 102.006, Code of Criminal Procedure) . . . \$2,  
25 plus postage;

26 (20-a) a fee to defray the cost of notifying state  
27 agencies of orders of expungement (Art. 45.0216, Code of Criminal

1 Procedure) . . . \$30 per application;

2 ~~[(20-b) a fee to defray the cost of notifying state~~  
3 ~~agencies of orders of expunction (Art. 45.055, Code of Criminal~~  
4 ~~Procedure) . . . \$30 per application.]~~

5 (21) sight orders:

6 (A) if the face amount of the check or sight order  
7 does not exceed \$10 (Art. 102.007, Code of Criminal Procedure)  
8 . . . not to exceed \$10;

9 (B) if the face amount of the check or sight order  
10 is greater than \$10 but does not exceed \$100 (Art. 102.007, Code of  
11 Criminal Procedure) . . . not to exceed \$15;

12 (C) if the face amount of the check or sight order  
13 is greater than \$100 but does not exceed \$300 (Art. 102.007, Code of  
14 Criminal Procedure) . . . not to exceed \$30;

15 (D) if the face amount of the check or sight order  
16 is greater than \$300 but does not exceed \$500 (Art. 102.007, Code of  
17 Criminal Procedure) . . . not to exceed \$50; and

18 (E) if the face amount of the check or sight order  
19 is greater than \$500 (Art. 102.007, Code of Criminal Procedure)  
20 . . . not to exceed \$75;

21 (22) fees for a pretrial intervention program:

22 (A) a supervision fee (Art. 102.012(a), Code of  
23 Criminal Procedure) . . . \$60 a month plus expenses; and

24 (B) a district attorney, criminal district  
25 attorney, or county attorney administrative fee (Art. 102.0121,  
26 Code of Criminal Procedure) . . . not to exceed \$500;

27 (23) parking fee violations for child safety fund in

1 municipalities with populations:

2 (A) greater than 850,000 (Art. 102.014, Code of  
3 Criminal Procedure) . . . not less than \$2 and not to exceed \$5; and

4 (B) less than 850,000 (Art. 102.014, Code of  
5 Criminal Procedure) . . . not to exceed \$5;

6 (24) an administrative fee for collection of fines,  
7 fees, restitution, or other costs (Art. 102.072, Code of Criminal  
8 Procedure) . . . not to exceed \$2 for each transaction; and

9 (25) a collection fee, if authorized by the  
10 commissioners court of a county or the governing body of a  
11 municipality, for certain debts and accounts receivable, including  
12 unpaid fines, fees, court costs, forfeited bonds, and restitution  
13 ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30  
14 percent of an amount more than 60 days past due.

15 SECTION 39. Subchapter B, Chapter 103, Government Code, is  
16 amended by adding Section 103.035 to read as follows:

17 Sec. 103.035. ADDITIONAL COSTS IN TRUANCY CASES: FAMILY  
18 CODE. A party to a truancy case in a truancy court shall pay court  
19 costs of \$50 under Section 65.107, Family Code, if ordered by the  
20 truancy court.

21 SECTION 40. Section 81.032, Local Government Code, is  
22 amended to read as follows:

23 Sec. 81.032. ACCEPTANCE OF DONATIONS AND BEQUESTS. The  
24 commissioners court may accept a gift, grant, donation, bequest, or  
25 devise of money or other property on behalf of the county, including  
26 a donation under Chapter 36, Government Code, for the purpose of  
27 performing a function conferred by law on the county or a county

1 officer.

2 SECTION 41. The following laws are repealed:

3 (1) Articles 45.054 and 45.055, Code of Criminal  
4 Procedure;

5 (2) Sections 25.094 and 25.0916(d), Education Code;  
6 and

7 (3) Sections 51.03(d), (e-1), and (g), 51.04(h),  
8 51.08(e), 54.021, 54.0402, 54.041(f) and (g), and 54.05(a-1),  
9 Family Code.

10 SECTION 42. The changes in law made by this Act apply only  
11 to an offense committed or conduct that occurs on or after the  
12 effective date of this Act. An offense committed or conduct that  
13 occurs before the effective date of this Act is governed by the law  
14 in effect on the date the offense was committed or the conduct  
15 occurred, and the former law is continued in effect for that  
16 purpose. For purposes of this section, an offense is committed or  
17 conduct occurs before the effective date of this Act if any element  
18 of the offense or conduct occurs before that date.

19 SECTION 43. To the extent of any conflict, this Act prevails  
20 over another Act of the 84th Legislature, Regular Session, 2015,  
21 relating to nonsubstantive additions to and corrections in enacted  
22 codes.

23 SECTION 44. This Act takes effect September 1, 2015.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

*No equivalent provision.*

SECTION 1. Article 4.14(g), Code of Criminal Procedure, is amended to read as follows:

SECTION 1. Same as Senate version.

(g) A municipality may 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:

- (1) all cases in which either municipality has jurisdiction under Subsection (a); and
- (2) cases that arise under Section 821.022, Health and Safety Code~~[, or Section 25.094, Education Code]~~.

*No equivalent provision.*

SECTION 2. Articles 45.0216(f) and (g), Code of Criminal Procedure, are amended to read as follows:

SECTION 2. Same as Senate version.

(f) The court shall 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:

- (1) for a person applying for the expunction of a conviction for an offense described by Section 8.07(a)(4) or (5), Penal Code, the person was not convicted of any other offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child; and
- (2) for a person applying for the expunction of a conviction for an offense described by Section 43.261, Penal Code, the person was not found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(7)



**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

~~[51.03(b)(8)]~~, Family Code, while the person was a child.  
(g) This article does not apply to any offense otherwise covered by:  
(1) Chapter 106, Alcoholic Beverage Code; or  
(2) Chapter 161, Health and Safety Code~~[-or~~  
~~(3) Section 25.094, Education Code].~~

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

Art. 45.0531. DISMISSAL OF PARENT CONTRIBUTING TO NONATTENDANCE *OR FAILURE TO ATTEND SCHOOL* CHARGE. Notwithstanding any other law, a county, justice, or municipal court, at the court's discretion, may dismiss a charge against a defendant alleging the defendant committed an offense under Section 25.093 *or* 25.094, Education Code, if the court finds that a dismissal would be in the interest of justice because:  
(1) there is a low likelihood of recidivism by the defendant;  
or  
(2) sufficient justification exists for the failure to attend school.

SECTION 3. Subchapter B, Chapter 45, Code of Criminal Procedure, is amended by adding Article 45.0541 to read as follows:

Art. 45.0541. AUTOMATIC EXPUNCTION OF TRUANCY RECORDS. (a) In this article, "truancy offense" means an offense committed under Section 25.094, Education Code.

SECTION 3. Subchapter B, Chapter 45, Code of Criminal Procedure, is amended by adding Articles 45.0531 and 45.0541 to read as follows:

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

(1) there is a low likelihood of recidivism by the defendant;  
or  
(2) sufficient justification exists for the failure to attend school.

SECTION 3.

Art. 45.0541. EXPUNCTION OF FAILURE TO ATTEND SCHOOL RECORDS. (a) In this article, "truancy offense" means an offense committed under the former Section 25.094,

SECTION 3. Subchapter B, Chapter 45, Code of Criminal Procedure, is amended by adding Articles 45.0531 and 45.0541 to read as follows:

Art. 45.0531. Same as Senate version.

SECTION 3.

Art. 45.0541. Same as Senate version except *does not include the requirement for the court to inform the individual of the expunction by sending a notice to the individual's last*

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

(b) An individual who has been convicted of a truancy offense or has had a complaint for a truancy offense dismissed is entitled to have the conviction or complaint and records relating to the conviction or complaint *automatically* expunged.

(c) The court in which the individual was convicted or a complaint for a truancy offense was filed shall order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the individual's record. After entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose. The court shall inform the individual of the expunction.

*No equivalent provision.*

SENATE VERSION (CS)

Education Code.

(b) An individual who has been convicted of a truancy offense or has had a complaint for a truancy offense dismissed is entitled to have the conviction or complaint and records relating to the conviction or complaint expunged.

(c) *Regardless of whether the individual has filed a petition for expunction*, the court in which the individual was convicted or a complaint for a truancy offense was filed shall order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the individual's record. After entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose. The court shall inform the individual of the expunction *by sending a notice to the individual's last known address.*

SECTION 4. Article 45.056(a), 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, is reenacted and amended to read as follows:

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

(1) employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent

CONFERENCE

*known address.*

SECTION 4. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians;

(2) employ one or more juvenile case managers who:

(A) shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases; and

(B) may provide:

(i) prevention services to a child considered at risk of entering the juvenile justice system; and

(ii) intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses; or

(3) agree in accordance with Chapter 791, 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).

*No equivalent provision.*

SECTION 5. Article 102.014(d), Code of Criminal Procedure, is amended to read as follows:

(d) A person convicted of an offense under Section 25.093 [~~or 25.094~~], Education Code, shall pay as taxable court costs \$20 in addition to other taxable court costs. The additional court costs under this subsection shall be collected in the same manner that other fines and taxable court costs in the case are collected.

SECTION 5. Same as Senate version.

*No equivalent provision.*

SECTION 6. (a) Section 7.111(a), Education Code, as

SECTION 6. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

amended by Chapters 339 (H.B. 2058) and 1217 (S.B. 1536), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted to read as follows:

(a) The board shall provide for the administration of high school equivalency examinations.

(b) Section 7.111(a-1), Education Code, is amended 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) A person who does not have a high school diploma may take the examination in accordance with rules adopted by the board if the person is:

(1) over 17 years of age;

(2) 16 years of age or older and:

(A) 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;

(B) 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

(C) is enrolled in the Texas Military Department's [~~adjutant general's department's~~] Seaborne Challenge Corps; or

(3) required to take the examination under a court order issued under Section 65.103(a)(3), Family Code.

*No equivalent provision.*

SECTION 7. Section 25.085, Education Code, is amended by amending Subsections (b), (e), and (f) and adding Subsections (g) and (h) to read as follows:

(b) Unless specifically exempted by Section 25.086, a child who is at least six years of age, or who is younger than six

SECTION 7. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

years of age and has previously been enrolled in first grade, and who has not yet reached the child's 19th [~~18th~~] birthday shall attend school.

(e) A person who voluntarily enrolls in school or voluntarily attends school after the person's 19th [~~18th~~] birthday shall attend school each school day for the entire period the program of instruction is offered. A school district may 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, 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. A person whose enrollment is revoked under this subsection may be considered an unauthorized person on school district grounds for purposes of Section 37.107.

(f) The board of trustees of a school district may adopt a policy requiring a person described by Subsection (e) who is under 21 years of age to attend school until the end of the school year. Section 65.003(a), Family Code, does not apply [~~25.094 applies~~] to a person subject to a policy adopted under this subsection. Sections 25.093 and 25.095 do not apply to the parent of a person subject to a policy adopted under this subsection.

(g) After the third unexcused absence of a person described by Subsection (e), a school district shall 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) As an alternative to revoking a person's enrollment under Subsection (e), a school district may impose a behavior improvement plan described by Section 25.0915(a-1)(1).

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

*No equivalent provision.*

SENATE VERSION (CS)

SECTION 8. Sections 25.091(a) and (b), Education Code, are amended to read as follows:

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

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

(2) to enforce compulsory school attendance requirements by:

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

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

(i) referring the student to a truancy court ~~[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 65.003(a) ~~[25.094 or under Section 51.03(b)(2)]~~, Family Code; or

(ii) filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

(3) to serve court-ordered legal process;

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

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

(6) to make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required under this subchapter to attend school or of the tenant

CONFERENCE

SECTION 8. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

or owner of the residence except to lawfully serve court-ordered legal process on the parent~~;~~ and

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

(b) 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) to investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;

(2) to enforce compulsory school attendance requirements by:  
(A) applying truancy prevention measures adopted under Section 25.0915 to the student; and

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

(i) referring the student to a truancy court ~~[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 65.003(a) ~~[25.094 or under Section 51.03(b)(2)]~~, Family Code; and

(ii) filing a complaint in a county, justice, or municipal court against a parent who violates Section 25.093;

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

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

(5) to make a home visit or otherwise contact the parent of a

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence; and

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

~~[(7) 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].~~

*No equivalent provision.*

SECTION 9. Section 25.0915, Education Code, is amended to read as follows:

Sec. 25.0915. TRUANCY PREVENTION MEASURES[; ~~REFERRAL AND FILING REQUIREMENT~~]. (a) A school district shall 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 65.003(a), Family Code; and

(2) minimize the need for referrals to truancy [juvenile] court for conduct described by Section 65.003(a) [51.03(b)(2)], Family Code[; ~~and~~

~~[(3) minimize the filing of complaints in county, justice, and municipal courts alleging a violation of Section 25.094].~~

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

(1) impose:

SECTION 9. Same as Senate version.



**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

(A) a behavior improvement plan on the student that must 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:

(i) a specific description of the behavior that is required or prohibited for the student;

(ii) the period for which the plan will be effective, not to exceed 45 school days after the date the contract becomes effective; or

(iii) the penalties for additional absences, including additional disciplinary action or the referral of the student to a truancy court; or

(B) school-based community service; or

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

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

(a-3) A school district shall offer additional counseling to a student and may not refer the student to truancy court if the school determines that the student's truancy is the result of:

(1) pregnancy;

(2) being in the state foster program;

(3) homelessness; or

(4) being the principal income earner for the student's family.

(a-4) 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 Section 25.0951(a), the school district shall initiate truancy prevention measures under this section on the student.

(b) Each referral to truancy [~~juvenile~~] court for conduct

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

described by Section 65.003(a) [~~51.03(b)(2)~~], Family Code, [~~or complaint filed in county, justice, or municipal court alleging a violation by a student of Section 25.094~~] must:

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

(A) the school applied the truancy prevention measures adopted under Subsection (a) or (a-4) to the student; and

(B) 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, Chapter 29.

(c) A truancy court shall dismiss a petition filed by a truant conduct prosecutor under Section 65.054, Family Code, if the court determines that the school district's referral:

(1) does [~~complaint or referral made by a school district under this section that is~~] not comply [~~made in compliance~~] with Subsection (b);

(2) does not satisfy the elements required for truant conduct;

(3) is not timely filed, unless the school district delayed the referral under Section 25.0951(d); or

(4) is otherwise substantively defective.

(d) Except as provided by Subsection (e), a school district shall employ a truancy prevention facilitator or juvenile case manager 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. At least annually, the truancy prevention facilitator shall 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) Instead of employing a truancy prevention facilitator, a

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

school district may designate an existing district employee or juvenile case manager 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) The agency shall adopt rules:

(1) creating minimum standards for truancy prevention measures adopted by a school district under this section; and

(2) establishing a set of best practices for truancy prevention measures.

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

SECTION 10. Section 25.0916, Education Code, is amended by amending Subsections (a), (c), (f), (h), and (i) and adding Subsection (c-1) to read as follows:

(a) This section applies only to a county with two or more courts hearing truancy cases and two or more school districts[:

~~[(1) with a population greater than 1.5 million; and~~

~~[(2) that includes at least:~~

~~[(A) 15 school districts with the majority of district territory in the county; and~~

~~[(B) 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) Unless the county has already adopted a uniform truancy policy under this section, not [Not] later than January [September] 1, 2016 [2013], the county judge or the county judge's designee and the mayor of the municipality in the

SECTION 10. Same as Senate version.

*No equivalent provision.*

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

county with the greatest population or the mayor's designee shall each appoint one member to serve on the committee as a representative of each of the following:

- (1) a juvenile ~~[district]~~ court;
- (2) a municipal court;
- (3) the office of a justice of the peace;
- (4) the superintendent or designee of an independent school district;
- (5) an open-enrollment charter school, if one exists in the county;
- (6) the office of the prosecutor with original truancy jurisdiction in the county ~~[district attorney]~~; and
- (7) the general public.

(c-1) In addition to the members listed in Subsection (c), the chief juvenile probation officer or the officer's designee serves on the committee. The county judge or the county judge's designee and the mayor of the municipality in the county with the greatest population or the mayor's designee may make additional appointments as needed.

(f) Unless a county has already adopted a uniform truancy policy under this section, not ~~[Not]~~ later than May ~~[September]~~ 1, 2016 [2014], the committee shall recommend:

- (1) a uniform process for filing truancy cases with truancy courts ~~[the judicial system]~~;
- (2) uniform administrative procedures;
- (3) uniform deadlines for processing truancy cases;
- (4) a local plan with strategies to address truancy, including effective prevention, intervention, and diversion methods to reduce truancy and referrals to a truancy ~~[county, justice, or municipal]~~ court;
- (5) a system for tracking truancy information and sharing truancy information among school districts, ~~[and]~~ open-

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

enrollment charter schools, truancy courts, juvenile courts, and juvenile probation departments in the county; and

(6) any changes to statutes or state agency rules the committee determines are necessary to address truancy.

(h) The committee's presiding officer shall issue a report not later than December 1, 2017 [2015], to the county judge and mayor of the municipality with the greatest population in the county on the implementation of the recommendations and compliance with state truancy laws by a school district located in the county.

(i) This section expires January 1, 2018 [2016].

*No equivalent provision.*

SECTION 11. Section 25.093, Education Code, is amended by amending Subsections (a) and (c) and adding Subsection (c-1) to read as follows:

(a) If a warning is issued as required by Section 25.095(a), 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 65.003(a), Family Code [25.094], the parent commits an offense.

(c) An offense under Subsection (a) is a [Class—C] misdemeanor, punishable by fine only, in an amount not to exceed:

- (1) \$100 for a first offense;
- (2) \$200 for a second offense;
- (3) \$300 for a third offense;
- (4) \$400 for a fourth offense; or
- (5) \$500 for a fifth or subsequent offense.

(c-1) Each day the child remains out of school may constitute a separate offense. Two or more offenses under Subsection (a) may be consolidated and prosecuted in a single action. If

SECTION 11. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

the court orders deferred disposition under Article 45.051, Code of Criminal Procedure, the court may require the defendant to provide personal services to a charitable or educational institution as a condition of the deferral.

*No equivalent provision.*

SECTION 12. Sections 25.095(a), (b), and (c), Education Code, are amended to read as follows:

(a) A school district or open-enrollment charter school shall 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) the student's parent is subject to prosecution under Section 25.093; and

(2) the student is subject to ~~[prosecution under Section 25.094 or to]~~ referral to a truancy ~~[juvenile]~~ court ~~[in a county with a population of less than 100,000]~~ for truancy conduct under Section 65.003(a), Family Code ~~[that violates that section].~~

(b) A school district shall notify a student's parent if the student has been absent from school, without excuse under Section 25.087, on three days or parts of days within a four-week period. The notice must:

(1) inform the parent that:

(A) it is the parent's duty to monitor the student's school attendance and require the student to attend school; and

(B) the student ~~[parent]~~ is subject to truancy prevention measures ~~[prosecution]~~ under Section 25.0915 ~~[25.093]~~; and

(2) request a conference between school officials and the parent to discuss the absences.

(c) The fact that a parent did not receive a notice under

SECTION 12. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

Subsection (a) or (b) does not create a defense ~~[to prosecution]~~ under Section 25.093 or under Section 65.003(a), Family Code [25.094].

*No equivalent provision.*

SECTION 13. Section 25.0951, Education Code, is amended to read as follows:

Sec. 25.0951. SCHOOL DISTRICT COMPLAINT OR REFERRAL FOR FAILURE TO ATTEND SCHOOL. (a) 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, a school district shall within 10 school days of the student's 10th absence[:

~~[(1) 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~~

~~[(2)] refer the student to a truancy [juvenile] court for truant conduct [indicating a need for supervision] under Section 65.003(a) [51.03(b)(2)], Family Code.~~

(b) If a student fails to attend school without excuse as specified by Subsection (a), a school district may 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 [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), the school district may:

[(1) file a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense

SECTION 13. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

~~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 (2) refer the student to a juvenile court for conduct indicating a need for supervision under Section 51.03(b)(2), Family Code].~~

~~(c)~~ In this subsection ~~[section]~~, "parent" includes a person standing in parental relation.

~~(c)~~ ~~(d)~~ A court shall dismiss a complaint ~~[or referral]~~ made by a school district under Subsection (b) ~~[under this section]~~ that:

(1) does [is] not comply [made in compliance] with this section;

(2) does not allege the elements required for the offense;

(3) is not timely filed, unless the school district delayed the referral under Subsection (d); or

(4) is otherwise substantively defective.

(d) Notwithstanding Subsection (a), a school district may delay a referral of a student for truant conduct, or may choose to not refer a student for truant conduct, if the school district:

(1) is applying truancy prevention measures to the student under Section 25.0915; and

(2) determines that the truancy prevention measures are succeeding and it is in the best interest of the student that a referral be delayed or not be made.

*No equivalent provision.*

SECTION 14. Section 25.0952, Education Code, is amended to read as follows:

Sec. 25.0952. PROCEDURES APPLICABLE TO PARENT CONTRIBUTING TO NONATTENDANCE OFFENSE ~~[SCHOOL ATTENDANCE RELATED OFFENSES]~~. In a

SECTION 14. Same as Senate version.



**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

proceeding based on a complaint under Section 25.093 [~~or 25.094~~], the court shall, except as otherwise provided by this chapter, use the procedures and exercise the powers authorized by Chapter 45, Code of Criminal Procedure.

*No equivalent provision.*

SECTION 15. Section 29.087(d), Education Code, is amended to read as follows:

(d) A student is eligible to participate in a program authorized by this section if:

(1) the student has been ordered by a court under Section 65.103, Family Code [~~Article 45.054, Code of Criminal Procedure, as added by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001~~], or by the Texas Juvenile Justice Department [~~Youth Commission~~] to:

(A) participate in a preparatory class for the high school equivalency examination; or

(B) take the high school equivalency examination administered under Section 7.111; or

(2) the following conditions are satisfied:

(A) the student is at least 16 years of age at the beginning of the school year or semester;

(B) the student is a student at risk of dropping out of school, as defined by Section 29.081;

(C) the student and the student's parent or guardian agree in writing to the student's participation;

(D) at least two school years have elapsed since the student first enrolled in ninth grade and the student has accumulated less than one third of the credits required to graduate under the minimum graduation requirements of the district or school; and

(E) any other conditions specified by the commissioner.

SECTION 15. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

*No equivalent provision.*

SECTION 16. Section 33.051(2), Education Code, is amended to read as follows:  
(2) "Missing child" means a child whose whereabouts are unknown to the legal custodian of the child and:  
(A) the circumstances of whose absence indicate that the child did not voluntarily leave the care and control of the custodian and that the taking of the child was not authorized by law; or  
(B) the child has engaged in conduct indicating a need for supervision under Section 51.03(b)(2) [~~51.03(b)(3)~~], Family Code.

SECTION 16. Same as Senate version.

*No equivalent provision.*

SECTION 17. Section 51.02(15), Family Code, is amended to read as follows:  
(15) "Status offender" means a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult, including:  
(A) [~~truancy under Section 51.03(b)(2);~~  
(~~B~~)] running away from home under Section 51.03(b)(2) [~~51.03(b)(3)~~];  
(~~B~~) [~~(C)~~] a fineable only offense under Section 51.03(b)(1) transferred to the juvenile court under Section 51.08(b), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult;  
(~~D~~) [~~failure to attend school under Section 25.094, Education Code;~~  
(~~C~~) [~~(E)~~] a violation of standards of student conduct as described by Section 51.03(b)(4) [~~51.03(b)(5)~~];  
(~~D~~) [~~(F)~~] a violation of a juvenile curfew ordinance or order;

SECTION 17. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

(E) ~~[(G)]~~ a violation of a provision of the Alcoholic Beverage Code applicable to minors only; or  
(F) ~~[(H)]~~ a violation of any other fineable only offense under Section 8.07(a)(4) or (5), Penal Code, but only if the conduct constituting the offense would not have been criminal if engaged in by an adult.

*No equivalent provision.*

SECTION 18. Sections 51.03(a), (b), (e), and (f), Family Code, are amended to read as follows:

- (a) Delinquent conduct is:
- (1) conduct, other than a traffic offense, that violates a penal law of this state or of the United States punishable by imprisonment or by confinement in jail;
  - (2) conduct that violates a lawful order of a court under circumstances that would constitute contempt of that court in:
    - (A) a justice or municipal court; ~~[or]~~
    - (B) a county court for conduct punishable only by a fine; or
    - (C) a truancy court;
  - (3) conduct that violates Section 49.04, 49.05, 49.06, 49.07, or 49.08, Penal Code; or
  - (4) conduct that violates Section 106.041, Alcoholic Beverage Code, relating to driving under the influence of alcohol by a minor (third or subsequent offense).
- (b) Conduct indicating a need for supervision is:
- (1) subject to Subsection (f), conduct, other than a traffic offense, that violates:
    - (A) the penal laws of this state of the grade of misdemeanor that are punishable by fine only; or
    - (B) the penal ordinances of any political subdivision of this state;
  - (2) ~~[the absence of a child on 10 or more days or parts of days~~

SECTION 18. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

~~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;~~

~~[(3)]~~ the voluntary absence of a child from the child's home without the consent of the child's parent or guardian for a substantial length of time or without intent to return;

~~(3)~~ ~~[(4)]~~ conduct prohibited by city ordinance or by state law involving the inhalation of the fumes or vapors of paint and other protective coatings or glue and other adhesives and the volatile chemicals itemized in Section 485.001, Health and Safety Code;

~~(4)~~ ~~[(5)]~~ an act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled under Section 37.007(c), Education Code;

~~(5)~~ ~~[(6)]~~ conduct that violates a reasonable and lawful order of a court entered under Section 264.305;

~~(6)~~ ~~[(7)]~~ notwithstanding Subsection (a)(1), conduct described by Section 43.02(a)(1) or (2), Penal Code; or

~~(7)~~ ~~[(8)]~~ notwithstanding Subsection (a)(1), conduct that violates Section 43.261, Penal Code.

(e) For the purposes of Subsection ~~(b)(2)~~ ~~[(b)(3)]~~, "child" does not include a person who is married, divorced, or widowed.

(f) Conduct ~~[Except as provided by Subsection (g), 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).

*No equivalent provision.*

SECTION 19. Section 51.13(e), Family Code, is amended to read as follows:

SECTION 19. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

(e) A finding that a child engaged in conduct indicating a need for supervision as described by Section 51.03(b)(7) [~~51.03(b)(8)~~] is a conviction only for the purposes of Sections 43.261(c) and (d), Penal Code.

SECTION 4. Section 54.03, Family Code, is amended by adding Subsection (g-1) to read as follows:

(g-1) If the child is alleged to have engaged in conduct indicating a need for supervision under Section 51.03(b)(2), the court, at the court's discretion, may dismiss the case with prejudice if the court finds that a dismissal would be in the interest of justice because:

(1) there is a low likelihood of recidivism by the defendant;  
or  
(2) sufficient justification exists for the failure to attend school.

*No equivalent provision.*

Same as Senate version.

*No equivalent provision.*

SECTION 20. Section 54.0404(a), Family Code, is amended to read as follows:

(a) If a child is found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(7) [~~51.03(b)(8)~~], the juvenile court may enter an order requiring the child to attend and successfully complete an educational program described by Section 37.218, Education Code, or another equivalent educational program.

SECTION 20. Same as Senate version.

*No equivalent provision.*

SECTION 21. Section 54.05(b), Family Code, is amended to read as follows:

(b) Except for a commitment to the Texas Juvenile Justice

SECTION 21. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

Department or to a post-adjudication secure correctional facility under Section 54.04011[~~a disposition under Section 54.0402,~~] or a placement on determinate sentence probation under Section 54.04(q), all dispositions automatically terminate when the child reaches the child's 18th birthday.

*No equivalent provision.*

SECTION 22. Section 58.0022, Family Code, is amended to read as follows:

SECTION 22. Same as Senate version.

Sec. 58.0022. FINGERPRINTS OR PHOTOGRAPHS TO IDENTIFY RUNAWAYS. A law enforcement officer who takes a child into custody with probable cause to believe that the child has engaged in conduct indicating a need for supervision as described by Section 51.03(b)(2) [~~51.03(b)(3)~~] and who after reasonable effort is unable to determine the identity of the child, may fingerprint or photograph the child to establish the child's identity. On determination of the child's identity or that the child cannot be identified by the fingerprints or photographs, the law enforcement officer shall immediately destroy all copies of the fingerprint records or photographs of the child.

*No equivalent provision.*

SECTION 23. Section 58.003(c-3), Family Code, is amended to read as follows:

SECTION 23. Same as Senate version.

(c-3) Notwithstanding Subsections (a) and (c) and subject to Subsection (b), a juvenile court, on the court's own motion and without a hearing, shall order the sealing of records concerning a child found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(6) [~~51.03(b)(7)~~] or taken into custody to determine whether the child engaged in conduct indicating a need for

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

supervision described by Section 51.03(b)(6) [~~51.03(b)(7)~~]. This subsection applies only to records related to conduct indicating a need for supervision described by Section 51.03(b)(6) [~~51.03(b)(7)~~].

*No equivalent provision.*

SECTION 24. Section 58.106(a), Family Code, is amended to read as follows:

(a) 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 may not be disseminated by the department except:

- (1) with the permission of the juvenile offender, to military personnel of this state or the United States;
- (2) to a person or entity to which the department may grant access to adult criminal history records as provided by Section 411.083, Government Code;
- (3) to a juvenile justice agency;
- (4) to the Texas Juvenile Justice Department [~~Youth Commission and the Texas Juvenile Probation Commission~~] for analytical purposes;
- (5) to the office of independent ombudsman of the Texas Juvenile Justice Department [~~Youth Commission~~]; and
- (6) to a county, justice, or municipal court exercising jurisdiction over a juvenile[, ~~including a court exercising jurisdiction over a juvenile under Section 54.021~~].

SECTION 24. Same as Senate version.

*No equivalent provision.*

SECTION 25. Section 59.003(a), Family Code, is amended to read as follows:

(a) Subject to Subsection (e), after a child's first commission of delinquent conduct or conduct indicating a need for

SECTION 25. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

supervision, the probation department or prosecuting attorney may, or the juvenile court may, in a disposition hearing under Section 54.04 or a modification hearing under Section 54.05, assign a child one of the following sanction levels according to the child's conduct:

- (1) for conduct indicating a need for supervision, other than conduct described in Section 51.03(b)(3) or (4) [~~51.03(b)(4) or (5)~~] or a Class A or B misdemeanor, the sanction level is one;
- (2) for conduct indicating a need for supervision under Section 51.03(b)(3) or (4) [~~51.03(b)(4) or (5)~~] or a Class A or B misdemeanor, other than a misdemeanor involving the use or possession of a firearm, or for delinquent conduct under Section 51.03(a)(2), the sanction level is two;
- (3) for a misdemeanor involving the use or possession of a firearm or for a state jail felony or a felony of the third degree, the sanction level is three;
- (4) for a felony of the second degree, the sanction level is four;
- (5) for a felony of the first degree, other than a felony involving the use of a deadly weapon or causing serious bodily injury, the sanction level is five;
- (6) for a felony of the first degree involving the use of a deadly weapon or causing serious bodily injury, for an aggravated controlled substance felony, or for a capital felony, the sanction level is six; or
- (7) for a felony of the first degree involving the use of a deadly weapon or causing serious bodily injury, for an aggravated controlled substance felony, or for a capital felony, if the petition has been approved by a grand jury under Section 53.045, or if a petition to transfer the child to criminal court has been filed under Section 54.02, the sanction level is seven.



**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

*No equivalent provision.*

SECTION 26. Section 61.002(a), Family Code, is amended to read as follows:

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

- (1) for payment of probation fees under Section 54.061;
- (2) for restitution under Sections 54.041(b) and 54.048;
- (3) for payment of graffiti eradication fees under Section 54.0461;
- (4) for community service under Section 54.044(b);
- (5) for payment of costs of court under Section 54.0411 or other provisions of law;
- (6) requiring the person to refrain from doing any act injurious to the welfare of the child under Section 54.041(a)(1);
- (7) enjoining contact between the person and the child who is the subject of a proceeding under Section 54.041(a)(2);
- (8) ordering a person living in the same household with the child to participate in counseling under Section 54.041(a)(3);
- (9) ~~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);~~
- ~~(10)~~ requiring a parent or other eligible person to pay reasonable attorney's fees for representing the child under Section 51.10(e);
- (10) ~~(11)~~ requiring the parent or other eligible person to reimburse the county for payments the county has made to an attorney appointed to represent the child under Section 51.10(j);
- (11) ~~(12)~~ requiring payment of deferred prosecution supervision fees under Section 53.03(d);

SECTION 26. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

~~(12)~~ ~~[(13)]~~ requiring a parent or other eligible person to attend a court hearing under Section 51.115;  
~~(13)~~ ~~[(14)]~~ requiring a parent or other eligible person to act or refrain from acting to aid the child in complying with conditions of release from detention under Section 54.01(r);  
~~(14)~~ ~~[(15)]~~ requiring a parent or other eligible person to act or refrain from acting under any law imposing an obligation of action or omission on a parent or other eligible person because of the parent's or person's relation to the child who is the subject of a proceeding under this title;  
~~(15)~~ ~~[(16)]~~ for payment of fees under Section 54.0462; or  
~~(16)~~ ~~[(17)]~~ for payment of the cost of attending an educational program under Section 54.0404.

*No equivalent provision.*

SECTION 27. The Family Code is amended by adding Title 3A to read as follows:  
TITLE 3A. TRUANCY COURT PROCEEDINGS  
CHAPTER 65. TRUANCY COURT PROCEEDINGS  
SUBCHAPTER A. GENERAL PROVISIONS

SECTION 27. The Family Code is amended by adding Title 3A to read as follows:  
TITLE 3A. TRUANCY COURT PROCEEDINGS  
CHAPTER 65. TRUANCY COURT PROCEEDINGS  
SUBCHAPTER A. GENERAL PROVISIONS

*No equivalent provision.*

Sec. 65.001. SCOPE AND PURPOSE. (a) This chapter details the procedures and proceedings in cases involving allegations of truant conduct.  
(b) The purpose of this chapter is to encourage school attendance by creating simple civil judicial procedures through which children are held accountable for excessive school absences.  
(c) The best interest of the child is the primary consideration in adjudicating truant conduct of the child.

Sec. 65.001. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

*No equivalent provision.*

SENATE VERSION (CS)

Sec. 65.002. DEFINITIONS. In this chapter:  
(1) "Child" means a person who is 12 years of age or older and younger than 19 years of age.  
(2) "Juvenile court" means a court designated under Section 51.04 to exercise jurisdiction over proceedings under Title 3.  
(3) "Qualified telephone interpreter" means a telephone service that employs licensed court interpreters, as defined by Section 157.001, Government Code.  
(4) "Truancy court" means a court designated under Section 65.004 to exercise jurisdiction over cases involving allegations of truant conduct.

*No equivalent provision.*

Sec. 65.003. TRUANT CONDUCT. (a) A child engages in truant conduct if the child is required to attend school under Section 25.085, Education Code, and fails to attend school on 10 or more days or parts of days within a six-month period in the same school year.  
(b) Truant conduct may be prosecuted only as a civil case in a truancy court.  
(c) 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. 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. 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.

CONFERENCE

Sec. 65.002. Same as Senate version.

Sec. 65.003. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

*No equivalent provision.*

Sec. 65.004. TRUANCY COURTS; JURISDICTION. (a) The following are designated as truancy courts:  
(1) in a county with a population of 1.75 million or more, the constitutional county court;  
(2) justice courts; and  
(3) municipal courts.  
(b) A truancy court has exclusive original jurisdiction over cases involving allegations of truant conduct.  
(c) A municipality may 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) A truancy court retains jurisdiction over a person, without regard to the age of the person, who was referred to the court under Section 65.051 for engaging in truant conduct before the person's 19th birthday, until final disposition of the case.

Sec. 65.004. Same as Senate version.

*No equivalent provision.*

Sec. 65.005. COURT SESSIONS. A truancy court is considered to be in session at all times.

Sec. 65.005. Same as Senate version.

*No equivalent provision.*

Sec. 65.006. VENUE. Venue for a proceeding under this chapter is the county in which the school in which the child is enrolled is located or the county in which the child resides.

Sec. 65.006. Same as Senate version.

*No equivalent provision.*

Sec. 65.007. RIGHT TO JURY TRIAL. (a) A child alleged to have engaged in truant conduct is entitled to a jury trial.  
(b) The number of jurors in a case involving an allegation of truant conduct is six. The state and the child are each entitled

Sec. 65.007. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

to three peremptory challenges.  
(c) There is no jury fee for a trial under this chapter.

Sec. 65.008. WAIVER OF RIGHTS. A right granted to a child by this chapter or by the constitution or laws of this state or the United States is waived in proceedings under this chapter if:

- (1) the right is one that may be waived;
- (2) 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;
- (3) the child signs the waiver;
- (4) the child's parent or guardian signs the waiver; and
- (5) the child's attorney signs the waiver, if the child is represented by counsel.

Sec. 65.008. Same as Senate version.

*No equivalent provision.*

Sec. 65.009. EFFECT OF ADJUDICATION. (a) An adjudication of a child as having engaged in truant conduct is not a conviction of crime. 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) The adjudication of a child as having engaged in truant conduct may not be used in any subsequent court proceedings, other than for the purposes of determining an appropriate remedial action under this chapter or in an appeal under this chapter.

Sec. 65.009. Same as Senate version.

*No equivalent provision.*

Sec. 65.010. BURDEN OF PROOF. A court or jury may not

Sec. 65.010. Same as Senate version.

*No equivalent provision.*

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

return a finding that a child has engaged in truant conduct unless the state has proved the conduct beyond a reasonable doubt.

*No equivalent provision.*

Sec. 65.011. APPLICABLE STATUTES REGARDING DISCOVERY. Discovery in a proceeding under this chapter is governed by Chapter 39, Code of Criminal Procedure, other than Articles 39.14(i) and (j).

Sec. 65.011. Same as Senate version.

*No equivalent provision.*

Sec. 65.012. PROCEDURAL RULES. The supreme court may promulgate rules of procedure applicable to proceedings under this chapter, including guidelines applicable to the informal disposition of truancy cases.

Sec. 65.012. Same as Senate version.

*No equivalent provision.*

Sec. 65.013. INTERPRETERS. (a) When on the motion for appointment of an interpreter by a party or on the motion of the court, in any proceeding under this chapter, 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. Articles 38.30(a), (b), and (c), Code of Criminal Procedure, apply in a proceeding under this chapter. A qualified telephone interpreter may be sworn to provide interpretation services if an interpreter is not available to appear in person before the court.  
(b) In any proceeding under this chapter, if a party notifies the court that the child, the child's parent or guardian, or a witness is deaf, the court shall appoint a qualified interpreter to interpret the proceedings in any language, including sign language, that the deaf person can understand. Articles 38.31(d), (e), (f), and (g), Code of Criminal Procedure, apply in a proceeding under this chapter.

Sec. 65.013. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

*No equivalent provision.*

Sec. 65.014. SIGNATURES. Any requirement under this chapter 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. 65.014. Same as Senate version.

*No equivalent provision.*

Sec. 65.015. PUBLIC ACCESS TO COURT HEARINGS. (a) Except as provided by Subsection (b), a truancy court shall open a hearing under this chapter to the public unless the court, for good cause shown, determines that the public should be excluded. (b) The court may 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. 65.015. Same as Senate version.

*No equivalent provision.*

Sec. 65.016. RECORDING OF PROCEEDINGS. (a) The proceedings in a truancy court that is not a court of record may not be recorded. (b) The proceedings in a truancy court that is a court of record must be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.

Sec. 65.016. Same as Senate version.

*No equivalent provision.*

Sec. 65.017. JUVENILE CASE MANAGERS. A truancy court may employ a juvenile case manager in accordance with Article 45.056, 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.

Sec. 65.017. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

*No equivalent provision.*

SUBCHAPTER B. INITIAL PROCEDURES

SUBCHAPTER B. INITIAL PROCEDURES

*No equivalent provision.*

Sec. 65.051. INITIAL REFERRAL TO TRUANCY COURT. When a truancy court receives a referral under Section 25.0915, Education Code, and the court is not required to dismiss the referral under that section, the court shall forward the referral to a truant conduct prosecutor who serves the court.

Sec. 65.051. Same as Senate version.

*No equivalent provision.*

Sec. 65.052. TRUANT CONDUCT PROSECUTOR. In a justice or municipal court or a constitutional county court that is designated as a truancy court, the attorney who represents the state in criminal matters in that court shall serve as the truant conduct prosecutor.

Sec. 65.052. Same as Senate version.

*No equivalent provision.*

Sec. 65.053. REVIEW BY PROSECUTOR. (a) The truant conduct prosecutor shall promptly review the facts described in a referral received under Section 65.051. (b) The prosecutor may, in the prosecutor's discretion, determine whether to file a petition with the truancy court requesting an adjudication of the child for truant conduct. If the prosecutor decides not to file a petition requesting an adjudication, the prosecutor shall inform the truancy court and the school district of the decision. (c) The prosecutor may not file a petition for an adjudication of a child for truant conduct if the referral was not made in compliance with Section 25.0915, Education Code.

Sec. 65.053. Same as Senate version.

*No equivalent provision.*

Sec. 65.054. STATE'S PETITION. (a) 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

Sec. 65.054. Same as Senate version.



**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

conduct.

(b) The proceedings shall be styled "In the matter of \_\_\_\_\_, Child," identifying the child by the child's initials only.

(c) The petition may be on information and belief.

(d) The petition must 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 at least one 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) Filing fees may not be charged for the filing of the state's petition.

*No equivalent provision.*

Sec. 65.055. LIMITATIONS PERIOD. A petition may not be filed after the 45th day after the date of the last absence giving rise to the act of truant conduct.

Sec. 65.055. Same as Senate version.

*No equivalent provision.*

Sec. 65.056. HEARING DATE. (a) After the petition has been filed, the truancy court shall set a date and time for an adjudication hearing.

(b) The hearing may not be held on or before the 10th day after the date the petition is filed.

Sec. 65.056. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

*No equivalent provision.*

SENATE VERSION (CS)

Sec. 65.057. SUMMONS. (a) After setting the date and time of an adjudication hearing, the truancy court shall direct the issuance of a summons to:  
(1) the child named in the petition;  
(2) the child's parent, guardian, or custodian;  
(3) the child's guardian ad litem, if any; and  
(4) any other person who appears to the court to be a proper or necessary party to the proceeding.  
(b) The summons must 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. A copy of the petition must accompany the summons. If a person, other than the child, required to appear under this section fails to attend a hearing, the truancy court may proceed with the hearing.  
(c) The truancy court may 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) A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing.

*No equivalent provision.*

Sec. 65.058. SERVICE OF SUMMONS. (a) If a person to be served with a summons is in this state and can be found, the summons shall be served on the person personally or by registered or certified mail, return receipt requested, at least five days before the date of the adjudication hearing.  
(b) Service of the summons may be made by any suitable person under the direction of the court.

*No equivalent provision.*

Sec. 65.059. REPRESENTATION BY ATTORNEY. (a) A

CONFERENCE

Sec. 65.057. Same as Senate version.

Sec. 65.058. Same as Senate version.

Sec. 65.059. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

child may be represented by an attorney in a case under this chapter. Representation by an attorney is not required.

(b) A child is not entitled to have an attorney appointed to represent the child, but the court may appoint an attorney if the court determines it is in the best interest of the child.

(c) The court may order a child's parent or other responsible person to pay for the cost of an attorney appointed under this section if the court determines that the person has sufficient financial resources.

*No equivalent provision.*

Sec. 65.060. CHILD'S ANSWER. After the petition has been filed, the child may answer, orally or in writing, the petition at or before the commencement of the hearing. If the child does not answer, a general denial of the alleged truant conduct is assumed.

Sec. 65.060. Same as Senate version.

*No equivalent provision.*

Sec. 65.061. GUARDIAN AD LITEM. (a) 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 chapter, the court may appoint a guardian ad litem to protect the interests of the child in the proceedings.

(b) An attorney for a child may also be the child's guardian ad litem. A law enforcement officer, probation officer, or other employee of the truancy court may not be appointed as a guardian ad litem.

(c) The court may 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. The court may issue the order only after determining that the parent or

Sec. 65.061. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

other responsible person has sufficient financial resources to offset the cost of the child's guardian ad litem wholly or partly.

*No equivalent provision.*

Sec. 65.062. ATTENDANCE AT HEARING. (a) The child must be personally present at the adjudication hearing. The truancy court may not proceed with the adjudication hearing in the absence of the child.

Sec. 65.062. Same as Senate version.

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

(c) Subsection (b) does not apply to:

(1) a person for whom, for good cause shown, the court excuses attendance;

(2) a person who is not a resident of this state; or

(3) a parent of a child for whom a managing conservator has been appointed and the parent is not a conservator of the child.

*No equivalent provision.*

Sec. 65.063. RIGHT TO REEMPLOYMENT. (a) An employer may not terminate the employment of a permanent employee because the employee is required under Section 65.062(b) to attend a hearing.

Sec. 65.063. Same as Senate version.

(b) 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) A person who is injured because of a violation of this section is entitled to:

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

- (1) reinstatement to the person's former position;
- (2) 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
- (3) reasonable attorney's fees in an amount approved by the court.
- (d) 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. To establish a defense under this subsection, an employer must prove that the termination of employment was because of circumstances other than the employee's attendance at the hearing.

*No equivalent provision.*

Sec. 65.064. SUBPOENA OF WITNESS. A witness may be subpoenaed in accordance with the procedures for the subpoena of a witness under the Code of Criminal Procedure.

Sec. 65.064. Same as Senate version.

*No equivalent provision.*

Sec. 65.065. CHILD ALLEGED TO BE MENTALLY ILL.  
(a) A party may 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, Health and Safety Code. In response to the motion, the truancy court shall temporarily stay the proceedings to determine whether probable cause exists to believe the child has a mental illness. In making a determination, the court may:  
(1) consider the motion, supporting documents, professional statements of counsel, and witness testimony; and  
(2) observe the child.  
(b) If the court determines that probable cause exists to believe that the child has a mental illness, the court shall

Sec. 65.065. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

dismiss the petition. If the court determines that evidence does not exist to support a finding that the child has a mental illness, the court shall dissolve the stay and continue with the truancy court proceedings.

*No equivalent provision.*

SUBCHAPTER C. ADJUDICATION HEARING AND REMEDIES

SUBCHAPTER C. ADJUDICATION HEARING AND REMEDIES

*No equivalent provision.*

Sec. 65.101. ADJUDICATION HEARING; JUDGMENT.

Sec. 65.101. Same as Senate version.

(a) A child may be found to have engaged in truant conduct only after an adjudication hearing conducted in accordance with the provisions of this chapter.

(b) At the beginning of the adjudication hearing, the judge of the truancy court shall explain to the child and the child's parent, guardian, or guardian ad litem:

- (1) the allegations made against the child;
- (2) the nature and possible consequences of the proceedings;
- (3) the child's privilege against self-incrimination;
- (4) the child's right to trial and to confrontation of witnesses;
- (5) the child's right to representation by an attorney if the child is not already represented; and
- (6) the child's right to a jury trial.

(c) Trial is by jury unless jury is waived in accordance with Section 65.008. Jury verdicts under this chapter must be unanimous.

(d) The Texas Rules of Evidence do not apply in a truancy proceeding under this chapter except:

- (1) when the judge hearing the case determines that a particular rule of evidence applicable to criminal cases must be followed to ensure that the proceedings are fair to all parties; or

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

(2) as otherwise provided by this chapter.  
(e) A child alleged to have engaged in truant conduct need not be a witness against nor otherwise incriminate himself or herself. An extrajudicial statement of the child that was obtained in violation of the constitution of this state or the United States may not be used in an adjudication hearing. 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) At the conclusion of the adjudication hearing, the court or jury shall find whether the child has engaged in truant conduct. The finding must be based on competent evidence admitted at the hearing. The child shall 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. 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) If the court or jury finds that the child did not engage in truant conduct, the court shall dismiss the case with prejudice.  
(h) If the court or jury finds that the child did engage in truant conduct, the court shall proceed to issue a judgment finding the child has engaged in truant conduct and order the remedies the court finds appropriate under Section 65.103. The jury is not involved in ordering remedies for a child who has been adjudicated as having engaged in truant conduct.

*No equivalent provision.*

Sec. 65.102. REMEDIAL ACTIONS. (a) The truancy court shall determine and order appropriate remedial actions in regard to a child who has been found to have engaged in

Sec. 65.102. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

truant conduct.

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

(c) After pronouncing the court's remedial actions, the court shall advise the child and the child's parent, guardian, or guardian ad litem of:

(1) the child's right to appeal, as detailed in Subchapter D; and

(2) the procedures for the sealing of the child's records under Section 65.201.

*No equivalent provision.*

Sec. 65.103. REMEDIAL ORDER. (a) A truancy court may 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, Education Code, 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, Education Code, if that is in the best interest of the child;

(4) attend a nonprofit, community-based special program that the court determines to be in the best interest of the child, including:

(A) an alcohol and drug abuse program;

(B) a rehabilitation program;

(C) a counseling program, including a self-improvement program;

Sec. 65.103. Same as Senate version.



**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

- (D) a program that provides training in self-esteem and leadership;
- (E) a work and job skills training program;
- (F) a program that provides training in parenting, including parental responsibility;
- (G) a program that provides training in manners;
- (H) a program that provides training in violence avoidance;
- (I) a program that provides sensitivity training; and
- (J) a program that provides training in advocacy and mentoring;
- (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) A truancy court may not order a child who has been found to have engaged in truant conduct to:
  - (1) attend a juvenile justice alternative education program, a boot camp, or a for-profit truancy class; or
  - (2) perform more than 16 hours of community service per week under this section.
- (c) In addition to any other order authorized by this section, a truancy court may 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. If the child does not have a driver's license or permit, the court may order the Department of Public Safety to deny the issuance of a license or permit to the child. 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 65.104.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

*No equivalent provision.*

*No equivalent provision.*

SENATE VERSION (CS)

Sec. 65.104. MAXIMUM TIME REMEDIAL ORDER IS EFFECTIVE. A truancy court's remedial order under Section 65.103 is effective until the later of:  
(1) 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  
(2) the last day of the school year in which the order was entered.

Sec. 65.105. ORDERS AFFECTING PARENTS AND OTHERS. (a) If a child has been found to have engaged in truant conduct, the truancy court may:  
(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, unless that person is *the child's parent or guardian*, in which case the court may contact the Department of Family and Protective Services, if necessary;  
(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

CONFERENCE

Sec. 65.104. Same as Senate version.

Sec. 65.105. ORDERS AFFECTING PARENTS AND OTHERS. (a) If a child has been found to have engaged in truant conduct, the truancy court may:  
(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, unless that person is *related to the child within the third degree by consanguinity or affinity*, in which case the court may contact the Department of Family and Protective Services, if necessary;  
(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

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

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) A person subject to an order proposed under Subsection (a) is entitled to a hearing before the order is entered by the court.

(c) 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. 65.106. LIABILITY FOR CLAIMS ARISING FROM COMMUNITY SERVICE. (a) A municipality or county that establishes a program to assist children and their parents in rendering community service under this subchapter may 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. The municipality or county is not liable for the claim to the extent that damages are recoverable under a contract of

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) A person subject to an order proposed under Subsection (a) is entitled to a hearing before the order is entered by the court.

(c) 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. 65.106. Same as Senate version.

*No equivalent provision.*

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

insurance or under a plan of self-insurance authorized by statute.

(b) 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 may not exceed \$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. Liability may not extend to punitive or exemplary damages.

(c) 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. 65.107. COURT COST. (a) 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, shall 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) 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. The written order to pay the court cost may be part of the court's order detailing the remedial actions in the case.

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

(d) The court costs collected under this section shall be deposited in a special account that can be used only to offset

Sec. 65.107. Same as Senate version.

*No equivalent provision.*

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

the cost of the operations of the truancy court.

*No equivalent provision.*

Sec. 65.108. HEARING TO MODIFY REMEDY. (a) A truancy court may hold a hearing to modify any remedy imposed by the court. A remedy may only be modified during the period the order is effective under Section 65.104.

(b) There is no right to a jury at a hearing under this section.

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

(d) Notwithstanding any other law, in considering a motion to modify a remedy imposed by the court, the truancy court may consider a written report from a school district official or employee, juvenile case manager, or professional consultant in addition to the testimony of witnesses. The court shall provide the attorney for the child and the prosecuting attorney with access to all written matters to be considered by the court. The court may order counsel not to reveal 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) The truancy court shall pronounce in court, in the presence of the child, the court's changes to the remedy, if any. The court shall specifically state the new remedy and the court's reasons for modifying the remedy in a written order. The court shall furnish a copy of the order to the child.

Sec. 65.108. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

*No equivalent provision.*

*No equivalent provision.*

*No equivalent provision.*

*No equivalent provision.*

*No equivalent provision.*

SENATE VERSION (CS)

Sec. 65.109. MOTION FOR NEW TRIAL. The order of a truancy court may be challenged by filing a motion for new trial. Rules 505.3(c) and (e), Texas Rules of Civil Procedure, apply to a motion for new trial.

SUBCHAPTER D. APPEAL

Sec. 65.151. RIGHT TO APPEAL. (a) The child or the state may appeal any order of a truancy court.

(b) An appeal from a truancy court shall be to a juvenile court. The case must be tried de novo in the juvenile court. This chapter applies to the de novo trial in the juvenile court. On appeal, the judgment of the truancy court is vacated.

(c) A judgment of a juvenile court in a trial conducted under Subsection (b) may be appealed in the same manner as an appeal under Chapter 56.

Sec. 65.152. GOVERNING LAW. Rule 506, Texas Rules of Civil Procedure, applies to the appeal of an order of a truancy court 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, except an appeal bond is not required.

Sec. 65.153. COUNSEL ON APPEAL. (a) A child may be represented by counsel on appeal.

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

CONFERENCE

Sec. 65.109. Same as Senate version.

SUBCHAPTER D. APPEAL

Sec. 65.151. RIGHT TO APPEAL. (a) The child, *the child's parent or guardian*, or the state may appeal any order of a truancy court. *A person subject to an order entered under Section 65.105 may appeal that order.*

(b) An appeal from a truancy court shall be to a juvenile court. The case must be tried de novo in the juvenile court. This chapter applies to the de novo trial in the juvenile court. On appeal, the judgment of the truancy court is vacated.

(c) A judgment of a juvenile court in a trial conducted under Subsection (b) may be appealed in the same manner as an appeal under Chapter 56.

Sec. 65.152. Same as Senate version.

Sec. 65.153. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

whether that attorney will handle the appeal.  
(c) An appeal serves to vacate the order of the truancy court.

*No equivalent provision.*

SUBCHAPTER E. RECORDS

SUBCHAPTER E. RECORDS

*No equivalent provision.*

Sec. 65.201. SEALING OF RECORDS. (a) A child who has been found to have engaged in truant conduct may 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:  
(1) the court;  
(2) the truant conduct prosecutor; and  
(3) the school district.  
(b) The application must include the following information or an explanation of why one or more of the following is not included:  
(1) the child's:  
(A) full name;  
(B) sex;  
(C) race or ethnicity;  
(D) date of birth;  
(E) driver's license or identification card number; and  
(F) social security number;  
(2) the dates on which the truant conduct was alleged to have occurred; and  
(3) if known, the cause number assigned to the petition and the court and county in which the petition was filed.  
(c) The truancy court shall order that the records be sealed after determining the child complied with the remedies ordered by the court in the case.  
(d) All index references to the records of the truancy court that are ordered sealed shall be deleted not later than the 30th

Sec. 65.201. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

day after the date of the sealing order.

(e) A truancy court, clerk of the court, truant conduct prosecutor, or school district shall reply to a request for information concerning a child's sealed truant conduct case that no record exists with respect to the child.

(f) Inspection of the sealed records may 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.

(g) 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 chapter. 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.

(h) On or after the fifth anniversary of a child's 16th birthday, on the motion of the child or on the truancy court's own motion, the truancy court may 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.

*No equivalent provision.*

Sec. 65.202. CONFIDENTIALITY OF RECORDS. Records and files created under this chapter may be disclosed only to:  
(1) the judge of the truancy court, the truant conduct prosecutor, and the staff of the judge and prosecutor;  
(2) the child or 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

Sec. 65.202. Same as Senate version.



**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

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;

(6) the agency; or

(7) 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.

*No equivalent provision.*

Sec. 65.203. DESTRUCTION OF CERTAIN RECORDS. A truancy court shall order the destruction of records relating to allegations of truant conduct that are held by the court or by the prosecutor if a prosecutor decides not to file a petition for an adjudication of truant conduct after a review of the referral under Section 65.053.

Sec. 65.203. Same as Senate version.

*No equivalent provision.*

SUBCHAPTER F. ENFORCEMENT OF ORDERS

SUBCHAPTER F. ENFORCEMENT OF ORDERS

*No equivalent provision.*

Sec. 65.251. FAILURE TO OBEY TRUANCY COURT ORDER; CHILD IN CONTEMPT OF COURT. (a) If a child fails to obey an order issued by a truancy court under Section 65.103(a) or a child is in direct contempt of court, the truancy court, after providing notice and an opportunity for a hearing, may hold the child in contempt of court and order either or both of the following:

Sec. 65.251. Same as Senate version.

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

(2) that the Department of Public Safety suspend the child's driver's license or permit or, if the child does not have a

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

license or permit, order that the Department of Public Safety deny the issuance of a license or permit to the child until the child fully complies with the court's orders.

(b) If a child fails to obey an order issued by a truancy court under Section 65.103(a) or a child is in direct contempt of court and the child has failed to obey an order or has been found in direct contempt of court on two or more previous occasions, the truancy court, after providing notice and an opportunity for a hearing, may refer the child to the juvenile probation department as a request for truancy intervention, unless the child failed to obey the truancy court order or was in direct contempt of court while 17 years of age or older.

(c) On referral of the child to the juvenile probation department, the truancy court shall provide to the juvenile probation department:

(1) documentation of all truancy prevention measures taken by the originating school district;

(2) documentation of all truancy orders for each of the child's previous truancy referrals, including:

(A) court remedies and documentation of the child's failure to comply with the truancy court's orders, if applicable, demonstrating all interventions that were exhausted by the truancy court; and

(B) documentation describing the child's direct contempt of court, if applicable;

(3) the name, birth date, and last known address of the child and the school in which the child is enrolled; and

(4) the name and last known address of the child's parent or guardian.

(d) The juvenile probation department may, on review of information provided under Subsection (c):

(1) offer further remedies related to the local plan for truancy

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

intervention strategies adopted under Section 25.0916, Education Code; or

(2) refer the child to a juvenile court for a hearing to be conducted under Section 65.252.

(e) A truancy court may not order the confinement of a child for the child's failure to obey an order of the court issued under Section 65.103(a).

*No equivalent provision.*

Sec. 65.252. PROCEEDINGS IN JUVENILE COURT. (a) After a referral by the local juvenile probation department, the juvenile court prosecutor shall determine if probable cause exists to believe that the child engaged in direct contempt of court or failed to obey an order of the truancy court under circumstances that would constitute contempt of court. On a finding that probable cause exists, the prosecutor shall determine whether to request an adjudication. Not later than the 20th day after the date the juvenile court receives a request for adjudication from the prosecutor, the juvenile court shall conduct a hearing to determine if the child engaged in conduct that constitutes contempt of the order issued by the truancy court or engaged in direct contempt of court.

(b) If the juvenile court finds that the child engaged in conduct that constitutes contempt of the order issued by the truancy court or direct contempt of court, the juvenile court shall:

(1) enter an order requiring the child to comply with the truancy court's order;

(2) forward a copy of the order to the truancy court within five days; and

(3) admonish the child, orally and in writing, of the consequences of subsequent referrals to the juvenile court, including:

Sec. 65.252. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

(A) a possible charge of delinquent conduct for contempt of the truancy court's order or direct contempt of court; and

(B) a possible detention hearing.

(c) If the juvenile court prosecutor finds that probable cause does not exist to believe that the child engaged in direct contempt or in conduct that constitutes contempt of the order issued by the truancy court, or if the juvenile probation department finds that extenuating circumstances caused the original truancy referral, the juvenile court shall enter an order requiring the child's continued compliance with the truancy court's order and notify the truancy court not later than the fifth day after the date the order is entered.

(d) This section does not limit the discretion of a juvenile prosecutor or juvenile court to prosecute a child for conduct under Section 51.03.

*No equivalent provision.*

Sec. 65.253. PARENT OR OTHER PERSON IN CONTEMPT OF COURT. (a) A truancy court may 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 65.062(b);

(2) an order requiring a person other than a child to take a particular action under Section 65.105(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 65.061(c); and

(4) an order that a parent, or person other than the child, pay the \$50 court cost under Section 65.107.

(b) A truancy court may find a parent or person other than the

Sec. 65.253. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

child in direct contempt of the court.  
(c) The penalty for a finding of contempt under Subsection (a) or (b) is a fine in an amount not to exceed \$100.  
(d) 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:  
(1) confinement in jail for a maximum of three days;  
(2) a maximum of 40 hours of community service; or  
(3) both confinement and community service.

*No equivalent provision.*

Sec. 65.254. WRIT OF ATTACHMENT. A truancy court may issue a writ of attachment for a person who violates an order entered under Section 65.057(c). The writ of attachment is executed in the same manner as in a criminal proceeding as provided by Chapter 24, Code of Criminal Procedure.

Sec. 65.254. Same as Senate version.

*No equivalent provision.*

Sec. 65.255. ENTRY OF TRUANCY COURT ORDER AGAINST PARENT OR OTHER ELIGIBLE PERSON. (a) The truancy court shall:  
(1) provide notice to a person who is the subject of a proposed truancy court order under Section 65.253; and  
(2) provide a sufficient opportunity for the person to be heard regarding the proposed order.  
(b) A truancy court order under Section 65.253 must be in writing and a copy promptly furnished to the parent or other eligible person.  
(c) The truancy court may require the parent or other eligible person to provide suitable identification to be included in the court's file. Suitable identification includes fingerprints, a driver's license number, a social security number, or similar indicia of identity.

Sec. 65.255. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

*No equivalent provision.*

Sec. 65.256. APPEAL. (a) The parent or other eligible person against whom a final truancy court order has been entered under Section 65.253 may appeal as provided by law from judgments entered by a justice court in civil cases.  
(b) Rule 506, Texas Rules of Civil Procedure, applies to an appeal under this section, except an appeal bond is not required.  
(c) 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. 65.256. Same as Senate version.

*No equivalent provision.*

Sec. 65.257. MOTION FOR ENFORCEMENT. (a) The state may initiate enforcement of a truancy court order under Section 65.253 against a parent or person other than the child by filing a written motion. In ordinary and concise language, the motion must:  
(1) identify the provision of the order allegedly violated and sought to be enforced;  
(2) state specifically and factually the manner of the person's alleged noncompliance;  
(3) state the relief requested; and  
(4) contain the signature of the party filing the motion.  
(b) The state must 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.  
(c) The truancy court may also initiate enforcement of an order under this section on its own motion.

Sec. 65.257. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

*No equivalent provision.*

SENATE VERSION (CS)

Sec. 65.258. NOTICE AND APPEARANCE. (a) On the filing of a motion for enforcement, the truancy court shall by written notice set the date, time, and place of the hearing and order the person against whom enforcement is sought to appear and respond to the motion.  
(b) The notice must 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. The notice must include a copy of the motion for enforcement. Personal service must comply with the Code of Criminal Procedure.  
(c) If a person moves to strike or specially excepts to the motion for enforcement, the truancy court shall rule on the exception or motion to strike before the court hears evidence on the motion for enforcement. If an exception is sustained, the court shall give the movant an opportunity to replead and continue the hearing to a designated date and time without the requirement of additional service.  
(d) If a person who has been personally served with notice to appear at the hearing does not appear, the truancy court may not hold the person in contempt, but may issue a warrant for the arrest of the person.

*No equivalent provision.*

Sec. 65.259. CONDUCT OF ENFORCEMENT HEARING. (a) The movant must 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) 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) The truancy court shall conduct the enforcement hearing

CONFERENCE

Sec. 65.258. Same as Senate version.

Sec. 65.259. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

without a jury.

(d) The truancy court shall include in the court's judgment:

(1) findings for each violation alleged in the motion for enforcement; and

(2) the punishment, if any, to be imposed.

(e) If the person against whom enforcement is sought was not represented by counsel during any previous court proceeding involving a motion for enforcement, the person may, 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) It is an affirmative defense to enforcement of a truancy court order under Section 65.253 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.

*No equivalent provision.*

SECTION 28. Section 264.304(c), Family Code, is amended to read as follows:

(c) The court shall determine that the child is an at-risk child if the court finds that the child has engaged in the following conduct:

(1) conduct, other than a traffic offense and except as provided by Subsection (d), that violates:

(A) the penal laws of this state; or

(B) the penal ordinances of any political subdivision of this state;

(2) the unexcused voluntary absence of the child on 10 or more days or parts of days within a six-month period [~~or three or more days or parts of days within a four-week period~~] from school without the consent of the child's parent, managing

SECTION 28. Same as Senate version.



**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

conservator, or guardian;  
(3) the voluntary absence of the child from the child's home without the consent of the child's parent, managing conservator, or guardian for a substantial length of time or without intent to return;  
(4) conduct that violates the laws of this state prohibiting driving while intoxicated or under the influence of intoxicating liquor (first or second offense) or driving while under the influence of any narcotic drug or of any other drug to a degree that renders the child incapable of safely driving a vehicle (first or second offense); or  
(5) conduct that evidences a clear and substantial intent to engage in any behavior described by Subdivisions (1)-(4).

*No equivalent provision.*

SECTION 29. Section 26.045(d), Government Code, is amended to read as follows:  
(d) 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 [~~or 25.094~~], Education Code, or alleging truant conduct under Section 65.003(a), Family Code.

SECTION 29. Same as Senate version.

*No equivalent provision.*

SECTION 30. Section 29.003(i), Government Code, is amended to read as follows:  
(i) A municipality may 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

SECTION 30. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

which the case arose, for:

- (1) all cases in which either municipality has jurisdiction under Subsection (a); and
- (2) cases that arise under Section 821.022, Health and Safety Code, or Section 65.003(a) [~~25.094~~], Family [~~Education~~] Code.

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

CHAPTER 36. JUDICIAL DONATION TRUST FUNDS

Sec. 36.001. ESTABLISHMENT OF TRUST FUNDS. (a) The governing body of a municipality or the commissioners court of a county may establish a judicial donation trust fund as a separate account held outside the municipal or county treasury to be used in accordance with this chapter.

(b) The governing body of a municipality or the commissioners court of a county may accept a gift, grant, donation, or other consideration from a public or private source that is designated for the judicial donation trust fund.

(c) Money received under Subsection (b) shall be deposited in the judicial donation trust fund and may only be disbursed in accordance with this chapter.

(d) Interest and income from the assets of the judicial donation trust fund shall be credited to and deposited in the trust fund.

Sec. 36.002. PROCEDURES AND ELIGIBILITY. The governing body of a municipality or the commissioners court of a county shall:

- (1) adopt the procedures necessary to receive and disburse

SECTION 31. Subtitle B, Title 2, Government Code, is amended by adding Chapter 36 to read as follows:

CHAPTER 36. JUDICIAL DONATION TRUST FUNDS

Sec. 36.001. Same as House version.

Sec. 36.002. PROCEDURES AND ELIGIBILITY. The governing body of a municipality or the commissioners court of a county shall:

- (1) adopt the procedures necessary to receive and disburse

SECTION 31. Subtitle B, Title 2, Government Code, is amended by adding Chapter 36 to read as follows:

CHAPTER 36. JUDICIAL DONATION TRUST FUNDS

Sec. 36.001. Same as House version.

Sec. 36.002. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

money from the judicial donation trust fund under this chapter; and

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

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

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

*No equivalent provision.*

*No equivalent provision.*

money from the judicial donation trust fund under this chapter; and

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

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

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

SECTION 32. Section 54.1172(a), Government Code, is amended to read as follows:

(a) The county judge may appoint one or more part-time or full-time magistrates to hear a matter alleging a violation of Section 25.093 [~~or 25.094~~], Education Code, or alleging truant conduct under Section 65.003(a), Family Code.

SECTION 33. Section 54.1952(a), Government Code, is

Sec. 36.003. Same as Senate version.

SECTION 32. Same as Senate version.

SECTION 33. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

amended to read as follows:

(a) The county judge may appoint one or more part-time or full-time magistrates to hear a matter alleging a violation of Section 25.093 [~~or 25.094~~], Education Code, or alleging truant conduct under Section 65.003(a), Family Code, referred to the magistrate by a court having jurisdiction over the matter.

*No equivalent provision.*

SECTION 34. Section 54.1955, Government Code, is amended to read as follows:

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

- (1) conduct hearings;
- (2) hear evidence;
- (3) issue summons for the appearance of witnesses;
- (4) examine witnesses;
- (5) swear witnesses for hearings;
- (6) recommend rulings or orders or a judgment in a case;
- (7) regulate proceedings in a hearing;
- (8) accept a plea of guilty or nolo contendere in a case alleging a violation of 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, 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, Code of Criminal Procedure;
- (10) for an uncontested adjudication of truant conduct under Section 65.003, Family Code, accept a plea to the petition or a stipulation of evidence, and take any other action authorized

SECTION 34. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

under Chapter 65, Family 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 [requirements] in Section 65.103, Family Code [~~Article 45.054, Code of Criminal Procedure; and~~  
[(11) 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, proceed as authorized by Article 45.050, Code of Criminal Procedure].  
(b) 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 [~~or 25.094~~], Education Code, or a case of truant conduct under Section 65.003, Family Code, a magistrate may not rule on the issue but may make findings, conclusions, and recommendations on the issue.

*No equivalent provision.*

SECTION 35. Section 54.1956, Government Code, is amended to read as follows:  
Sec. 54.1956. NOT GUILTY PLEA ENTERED OR DENIAL OF ALLEGED CONDUCT. (a) On entry of a not guilty plea for a violation of Section 25.093, Education Code, the magistrate shall 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) On denial by a child of truant conduct, as defined by Section 65.003(a), Family Code, the magistrate shall refer the case to the appropriate truancy court for adjudication.

SECTION 35. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

*No equivalent provision.*

SENATE VERSION (CS)

SECTION 36. Section 71.0352, Government Code, is amended to read as follows:  
Sec. 71.0352. JUVENILE DATA ~~[DATE]~~: JUSTICE, MUNICIPAL, AND TRUANCY ~~[JUVENILE]~~ COURTS. As a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System:  
(1) a justice court, ~~and~~ municipal court, or truancy court ~~[courts]~~ shall report the number of cases filed for ~~[the following offenses]~~:  
(A) truancy conduct under Section 65.003(a), Family Code ~~[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 or 351.903, Local Government Code; and  
(2) in cases in which a child fails to obey an order of a justice court, ~~[or]~~ municipal court, or truancy court under circumstances that would constitute contempt of court, the justice court, ~~[or]~~ municipal court, or truancy court shall report the number of incidents 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 ~~[and]~~ Section 65.251 ~~[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 65.251, Family Code.

CONFERENCE

SECTION 36. Same as Senate version.

*No equivalent provision.*

SECTION 37. Section 102.021, Government Code, is

SECTION 37. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

amended to read as follows:

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

- (1) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Art. 102.0045, Code of Criminal Procedure) . . . \$4;
- (2) a fee for services of prosecutor (Art. 102.008, Code of Criminal Procedure) . . . \$25;
- (3) fees for services of peace officer:
  - (A) issuing a written notice to appear in court for certain violations (Art. 102.011, Code of Criminal Procedure) . . . \$5;
  - (B) executing or processing an issued arrest warrant, capias, or capias pro fine (Art. 102.011, Code of Criminal Procedure) . . . \$50;
  - (C) summoning a witness (Art. 102.011, Code of Criminal Procedure) . . . \$5;
  - (D) serving a writ not otherwise listed (Art. 102.011, Code of Criminal Procedure) . . . \$35;
  - (E) taking and approving a bond and, if necessary, returning the bond to courthouse (Art. 102.011, Code of Criminal Procedure) . . . \$10;
  - (F) commitment or release (Art. 102.011, Code of Criminal Procedure) . . . \$5;
  - (G) summoning a jury (Art. 102.011, Code of Criminal Procedure) . . . \$5;
  - (H) attendance of a prisoner in habeas corpus case if prisoner has been remanded to custody or held to bail (Art. 102.011, Code of Criminal Procedure) . . . \$8 each day;
  - (I) mileage for certain services performed (Art. 102.011,

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

Code of Criminal Procedure) . . . \$0.29 per mile; and  
(J) services of a sheriff or constable who serves process and attends examining trial in certain cases (Art. 102.011, Code of Criminal Procedure) . . . not to exceed \$5;  
(4) services of a peace officer in conveying a witness outside the county (Art. 102.011, Code of Criminal Procedure) . . . \$10 per day or part of a day, plus actual necessary travel expenses;  
(5) overtime of peace officer for time spent testifying in the trial or traveling to or from testifying in the trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;  
(6) court costs on an offense relating to rules of the road, when offense occurs within a school crossing zone (Art. 102.014, Code of Criminal Procedure) . . . \$25;  
(7) court costs on an offense of passing a school bus (Art. 102.014, Code of Criminal Procedure) . . . \$25;  
(8) court costs on an offense of parent contributing to student nonattendance [~~truancy or contributing to truancy~~] (Art. 102.014, Code of Criminal Procedure) . . . \$20;  
(9) cost for visual recording of intoxication arrest before conviction (Art. 102.018, Code of Criminal Procedure) . . . \$15;  
(10) cost of certain evaluations (Art. 102.018, Code of Criminal Procedure) . . . actual cost;  
(11) additional costs attendant to certain intoxication convictions under Chapter 49, Penal Code, for emergency medical services, trauma facilities, and trauma care systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;  
(12) additional costs attendant to certain child sexual assault and related convictions, for child abuse prevention programs (Art. 102.0186, Code of Criminal Procedure) . . . \$100;  
(13) court cost for DNA testing for certain felonies (Art.



**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

102.020(a)(1), Code of Criminal Procedure) . . . \$250;  
(14) court cost for DNA testing for the offense of public lewdness or indecent exposure (Art. 102.020(a)(2), Code of Criminal Procedure) . . . \$50;  
(15) court cost for DNA testing for certain felonies (Art. 102.020(a)(3), Code of Criminal Procedure) . . . \$34;  
(16) if required by the court, a restitution fee for costs incurred in collecting restitution installments and for the compensation to victims of crime fund (Art. 42.037, Code of Criminal Procedure) . . . \$12;  
(17) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) . . . part or all of the costs as directed by the judge; and  
(18) costs attendant to convictions under Chapter 49, Penal Code, and under Chapter 481, Health and Safety Code, to help fund drug court programs established under Chapter 122, 123, 124, or 125, Government Code, or former law (Art. 102.0178, Code of Criminal Procedure) . . . \$60.

*No equivalent provision.*

SECTION 38. Section 103.021, Government Code, is amended to read as follows:  
Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Code of Criminal Procedure if ordered by the court or otherwise required:  
(1) a personal bond fee (Art. 17.42, Code of Criminal Procedure) . . . the greater of \$20 or three percent of the amount of the bail fixed for the accused;

SECTION 38. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

- (10) additional community supervision fee for certain offenses (Art. 42.12, Code of Criminal Procedure) . . . \$5 per month;
- (11) for certain financially able sex offenders as a condition of community supervision, the costs of treatment, specialized supervision, or rehabilitation (Art. 42.12, Code of Criminal Procedure) . . . all or part of the reasonable and necessary costs of the treatment, supervision, or rehabilitation as determined by the judge;
- (12) fee for failure to appear for trial in a justice or municipal court if a jury trial is not waived (Art. 45.026, Code of Criminal Procedure) . . . costs incurred for impaneling the jury;
- (13) costs of certain testing, assessments, or programs during a deferral period (Art. 45.051, Code of Criminal Procedure) . . . amount ordered;
- (14) special expense on dismissal of certain misdemeanor complaints (Art. 45.051, Code of Criminal Procedure) . . . not to exceed amount of fine assessed;
- (15) an additional fee:
  - (A) for a copy of the defendant's driving record to be requested from the Department of Public Safety by the judge (Art. 45.0511(c-1), Code of Criminal Procedure) . . . amount equal to the sum of the fee established by Section 521.048, Transportation Code, and the state electronic Internet portal fee;
  - (B) as an administrative fee for requesting a driving safety course or a course under the motorcycle operator training and safety program for certain traffic offenses to cover the cost of administering the article (Art. 45.0511(f)(1), Code of Criminal Procedure) . . . not to exceed \$10; or
  - (C) for requesting a driving safety course or a course under

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

the motorcycle operator training and safety program before the final disposition of the case (Art. 45.0511(f)(2), Code of Criminal Procedure) . . . not to exceed the maximum amount of the fine for the offense committed by the defendant;

(16) a request fee for teen court program (Art. 45.052, Code of Criminal Procedure) . . . \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise not to exceed \$10;

(17) a fee to cover costs of required duties of teen court (Art. 45.052, Code of Criminal Procedure) . . . \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise \$10;

(18) a mileage fee for officer performing certain services (Art. 102.001, Code of Criminal Procedure) . . . \$0.15 per mile;

(19) certified mailing of notice of hearing date (Art. 102.006, Code of Criminal Procedure) . . . \$1, plus postage;

(20) certified mailing of certified copies of an order of expunction (Art. 102.006, Code of Criminal Procedure) . . . \$2, plus postage;

(20-a) a fee to defray the cost of notifying state agencies of orders of expungement (Art. 45.0216, Code of Criminal Procedure) . . . \$30 per application;

~~[(20-b) a fee to defray the cost of notifying state agencies of orders of expunction (Art. 45.055, Code of Criminal Procedure) . . . \$30 per application;]~~

(21) sight orders:

(A) if the face amount of the check or sight order does not exceed \$10 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$10;

(B) if the face amount of the check or sight order is greater than \$10 but does not exceed \$100 (Art. 102.007, Code of

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

Criminal Procedure) . . . not to exceed \$15;  
(C) if the face amount of the check or sight order is greater than \$100 but does not exceed \$300 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$30;  
(D) if the face amount of the check or sight order is greater than \$300 but does not exceed \$500 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$50; and  
(E) if the face amount of the check or sight order is greater than \$500 (Art. 102.007, Code of Criminal Procedure) . . . not to exceed \$75;  
(22) fees for a pretrial intervention program:  
(A) a supervision fee (Art. 102.012(a), Code of Criminal Procedure) . . . \$60 a month plus expenses; and  
(B) a district attorney, criminal district attorney, or county attorney administrative fee (Art. 102.0121, Code of Criminal Procedure) . . . not to exceed \$500;  
(23) parking fee violations for child safety fund in municipalities with populations:  
(A) greater than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not less than \$2 and not to exceed \$5; and  
(B) less than 850,000 (Art. 102.014, Code of Criminal Procedure) . . . not to exceed \$5;  
(24) an administrative fee for collection of fines, fees, restitution, or other costs (Art. 102.072, Code of Criminal Procedure) . . . not to exceed \$2 for each transaction; and  
(25) a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for certain debts and accounts receivable, including unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid (Art. 103.0031, Code of Criminal Procedure) . . . 30 percent of an amount more than 60 days past due.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

*No equivalent provision.*

SECTION 39. Subchapter B, Chapter 103, Government Code, is amended by adding Section 103.035 to read as follows:

Sec. 103.035. ADDITIONAL COSTS IN TRUANCY CASES: FAMILY CODE. A party to a truancy case in a truancy court shall pay court costs of \$50 under Section 65.107, Family Code, if ordered by the truancy court.

SECTION 39. Same as Senate version.

SECTION 5. Section 81.032, Local Government Code, is amended.

SECTION 40. Same as House version.

SECTION 40. Same as House version.

*No equivalent provision.*

SECTION 41. The following laws are repealed:

- (1) Articles 45.054 and 45.055, Code of Criminal Procedure;
- (2) Sections 25.094 and 25.0916(d), Education Code; and
- (3) Sections 51.03(d), (e-1), and (g), 51.04(h), 51.08(e), 54.021, 54.0402, 54.041(f) and (g), and 54.05(a-1), Family Code.

SECTION 41. Same as Senate version.

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

*No equivalent provision.*

Same as Senate version.

(b) Section 54.03(g-1), Family Code, as added by this Act, applies only to conduct that occurs on or after the effective

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (CS)

CONFERENCE

date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct occurs before the effective date of this Act if any element of the conduct occurred before that date.

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

*No equivalent provision.*

Same as Senate version.

*No equivalent provision.*

SECTION 42. The changes in law made by this Act apply only to an offense committed or conduct that occurs on or after the effective date of this Act. An offense committed or conduct that occurs before the effective date of this Act is governed by the law in effect on the date the offense was committed or the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed or conduct occurs before the effective date of this Act if any element of the offense or conduct occurs before that date.

SECTION 42. Same as Senate version.

*No equivalent provision.*

SECTION 43. 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 43. Same as Senate version.

**House Bill 2398**  
Conference Committee Report  
Section-by-Section Analysis

HOUSE VERSION

SECTION 8. This Act takes effect September 1, 2015.

SENATE VERSION (CS)

SECTION 44. Same as House version.

CONFERENCE

SECTION 44. Same as House version.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 29, 2015**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB2398** by White, James (Relating to court jurisdiction and procedures relating to truancy; establishing judicial donation trust funds; providing criminal penalties; imposing a court cost.), **Conference Committee Report**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2398, Conference Committee Report: a positive impact of \$236,809 through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	\$77,369
2017	\$159,440
2018	\$158,047
2019	\$158,047
2020	\$158,047

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Dedicated</i>	Probable Revenue Gain/(Loss) from <i>Judicial Fund</i> 573
2016	\$218,131	(\$140,762)	(\$880,169)	(\$140,679)
2017	\$300,202	(\$140,762)	(\$880,169)	(\$140,679)
2018	\$298,809	(\$140,762)	(\$880,169)	(\$140,679)
2019	\$298,809	(\$140,762)	(\$880,169)	(\$140,679)
2020	\$298,809	(\$140,762)	(\$880,169)	(\$140,679)



Fiscal Year	Probable Revenue Gain/(Loss) from <i>Appropriated Fund 0977 Law Enforcement and Custodial Officer Supplement Retirement Trust Fund</i>
2016	(\$104,502)
2017	(\$104,502)
2018	(\$104,502)
2019	(\$104,502)
2020	(\$104,502)

## Fiscal Analysis

The bill would repeal the offense of failure to attend school in Section 25.094 of the Education Code and removes truancy from the definition of conduct indicating need for supervision currently under the Family Code Section 51.03(b)(2). It would create a new civil offense called "truant conduct," which would apply to a child age 12 or older and younger than 19. This increases the age through which students are required to attend school by one year.

The current offense of parent contributing to nonattendance would have fines capped at \$100 for a first offense, and increase by \$100 for each subsequent offense up to a maximum of \$500.

The optional referral to court for both students and parents after unexcused absences for three days or parts of days in a four week period is removed; only referrals for unexcused absences on 10 or more days or parts of days remains. School districts are also allowed to delay or forego referring a student to truancy court if the school district applies truancy prevention measures, determines that those are succeeding, and decides it is in the best interest of the student to delay or forego court referral.

The Texas Education Agency (TEA) would be required to create minimum standards and establish best practices for truancy prevention measures, and adopt rules for sanctioning school districts found to be noncompliant with those minimum standards. The bill requires school districts to employ a truancy prevention facilitator or designate an existing employee as such. The bill would require school districts to take one or more of specified actions as truancy prevention measures if a student has unexcused absences for three days or parts of days in a four week period. The bill would prohibit a school district from referring a student to truancy court if the school determines that the student's truancy is due to pregnancy, being in foster care, homelessness, or being the principal earner for the student's family.

The bill would create a new type of truancy court. Truant conduct would only be prosecuted as a civil case and only in a truancy court. Justice, municipal, and certain constitutional county courts would be designated as truancy courts. The bill also establishes procedures for the new truancy courts. The bill requires a truant conduct prosecutor to review referrals and decide whether or not to petition the truancy court for adjudication of the case, and requires a truancy court to dismiss any referrals that do not comply with requirements. If a truancy court determines that probable cause exists to believe that a child alleged to have engaged in truant conduct has a mental illness, the court would be required to dismiss the petition. If the child, parent, or a witness in a case does not speak English, or is deaf, an interpreter must interpret for the person.

The bill requires a person to be served with a summons by registered or certified mail or in person. The bill requires a parent of a child to be present at a truancy court hearing, unless

specifically excused. If a child appears before the truancy court without a parent or guardian, or the parents or guardians are incapable or unwilling to make decisions in the best interests of the child, the court may appoint a guardian ad litem or an attorney to protect the interests of the child in the proceedings. If the parent or person responsible for supporting the child has sufficient resources, the court may require them to reimburse the county or municipality for the cost of the guardian ad litem or attorney.

If a truancy court finds that a child engaged in truant conduct, the court would be able to, after a hearing, enter remedial orders for the child, parent(s), or any other person contributing to the truant conduct. These remedial orders would vary, but could include attendance at school or tutoring, participation in certain programs or community service, or suspension of drivers' licenses or permits for the children. If the child, parent, or other person contributing to truant conduct failed to obey the truancy court orders, the truancy court could find the person in contempt of court. The bill requires juvenile courts to conduct a hearing within 20 days of a juvenile prosecutor's request for adjudication to determine a child referred from truancy court for contempt did engage in conduct that would constitute contempt.

Upon a finding of truant conduct, the child, parent, or other person responsible for the child's support could be assessed a local court cost of \$50, if the party were financially able to pay that cost. Those court costs collected would be deposited in a special account to be used only to offset the cost of the truancy court's operations. A child found to have engaged in truant conduct could apply to have his or her records sealed by the truancy court at age 18, and the truancy court would be required to seal the records after determining the child had complied with the court ordered remedies.

The bill would permit the governing body of a municipality or the county commissioners court of a county to establish a judicial trust fund to assist children and families who appear in court for truancy or parent contributing to nonattendance. Under the bill, the governing body of a municipality or the commissioners court would establish procedures to receive and disperse funds and establish the eligibility requirements to disperse money. The bill would permit a judge to award money from the judicial trust fund to assist eligible children or families to eliminate barriers to school attendance or prevent criminal behavior.

## **Methodology**

The bill would increase the compulsory attendance age from 18 to 19. The Texas Education Agency estimates that this change will not significantly affect state cost under the Foundation School Program because the additional students subject to compulsory attendance requirements under the bill are also entitled to the benefits of the Foundation School Program under current law. TEA indicated that to the extent sanctions may be required for school districts, there may be costs associated that cannot be determined at this time.

The Office of Court Administration does not anticipate the new court procedures would cause any significant increase or decrease in the workload of the courts.

Repealing the offenses in the Education Code, which are Class C misdemeanors, would result in a loss of court cost revenue to the state from these cases. Including cases from Dallas and Fort Bend Truancy courts, as well as justice and municipal courts, there were 93,786 complaints of failure to attend school in fiscal year 2014. The Office of Court Administration estimated that 50 percent of these types of cases result in a conviction or deferred disposition, both of which result in the assessment of court costs. Applying the 50 percent conviction rate would yield 46,893 cases in which court costs would have been assessed ( $93,783 \times 0.5 = 46,893$ ). The state portion of court

costs assessed on these cases is \$54 per case. The number of cases with court costs assessed, multiplied by the court cost per case would yield \$2,532,222 ( $46,893 \times \$54 = \$2,532,222$ ). Assuming a collection rate to the assessed court costs of 50 percent would result in an estimated \$1,266,111 in lost court cost revenue per year ( $\$2,532,222 \times 0.5 = \$1,266,111$ ).

Removing truancy from the definition of conduct indicating need for supervision (CINS) would result in savings to the state from a reduction in the state share of juvenile probation costs for those children who would otherwise be supervised for truancy. In fiscal year 2014, 357 children were placed on local supervision for truancy. Based on the average cost of \$5.40 per day of juvenile probation supervision found in the General Appropriations Act, this would result in an annual savings of just under \$300,000. First year savings would be less because of a delay between when an offense is committed and a child would begin supervision. If the bill becomes effective immediately, savings in the first year would be slightly greater.

### **Local Government Impact**

County and municipal governments would see reduced revenue from the local portion of courts costs collected for the repealed Class C misdemeanor offense, which could be offset by the \$50 court cost in the new truancy court, as well as a reduction in fines collected.

Assuming 50 percent of 93,786 failure to attend cases have court costs assessed and a collection rate of 50 percent, there would be a loss of \$770,772 in revenue to local governments per year. There would be an indeterminate loss in fine revenue to local governments from the repeal of failure to attend school cases.

The new truancy court would impose a court cost of \$50 on findings of truancy, if the defendant is able to pay. OCA estimates that 90 percent of families will be able to pay. Assuming a 50 percent collection rate on those that are assessed the court cost, this court cost would yield a gain of up to approximately \$1,055,093 in revenue per year. However, referrals and revenue may be lower than estimated given that school districts would be prohibited from referring for three absences only, and would also be able to defer or forego referrals after 10 absences under certain circumstances.

Removing truancy from the definition of conduct indicating need for supervision (CINS) would also result in local savings from a reduction in the local share of juvenile probation costs for those children who would otherwise be supervised for truancy. In fiscal year 2014, 357 children were placed on local supervision for truancy. Based on the average cost of \$7.85 per day of juvenile probation supervision found in the Uniform Cost Report, this would result in an annual savings of approximately \$435,000. First year savings would be less because of a delay between when an offense is committed and a child would begin supervision. If the bill becomes effective immediately, savings in the first year would be slightly greater.

The Juvenile Justice Department indicates that several procedural changes in the bill may have local cost to both the new truancy courts and the existing juvenile courts, though these cannot be determined at this time and would vary by jurisdiction. Travis, Midland, and El Paso Counties indicated they may have to add or reassign staff to expunge failure to attend school records as required by the bill and to meet other requirements of the bill.

Earlier interventions for some students could affect attendance rates and thus school district funding, but there are no data to estimate the possible fiscal impact. There may be additional costs to school districts to either hire a truancy prevention facilitator or to add these duties to an existing employee. There may be costs to adopt policies for truancy prevention measures. Not following these measures could lead to sanctions from the TEA.

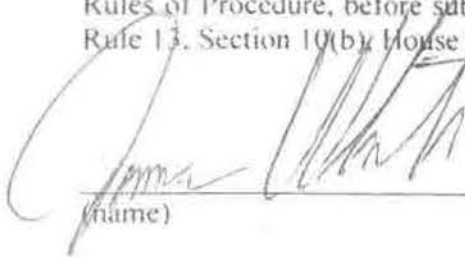
**Source Agencies:** 644 Juvenile Justice Department, 212 Office of Court Administration,  
Texas Judicial Council, 304 Comptroller of Public Accounts, 701 Central  
Education Agency

**LBB Staff:** UP, SD, JQ, ESi, JJ, JPo, KJo, KVe, AW

**Certification of Compliance with  
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on HB 2398 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

  
\_\_\_\_\_  
(name)

5/28/2015  
\_\_\_\_\_  
(date)