

SUBJECT: Limiting truancy tickets to 12 years and over and requiring truancy policy

COMMITTEE: Corrections — committee substitute recommended

VOTE: 7 ayes — Madden, Allen, Cain, Parker, Perry, White, Workman

0 nays

2 absent — Hunter, Marquez

SENATE VOTE: On final passage, April 26 — 27-4 (Estes, Harris, Ogden, Williams)

WITNESSES: For — Clarissa Chavarria, City of San Antonio; Tracy Curts, City of Dallas; Brian Holman, Texas Municipal Courts Association; Catherine Klier, City of Houston – Municipal Courts Department; Ivan Langford, Town of Little Elm; Ian McCurley, ACLU of Texas; Berta Mejia, City of Houston Municipal Court; Norma Morales-Arias, City of San Antonio; Gabe Quintanilla and Alicia Trujillo, City of San Antonio Municipal Court; Donald Stevenson, Plano Municipal Court; Celeste Villarreal, Municipal Judges Section, State Bar of Texas; (*Registered, but did not testify*: Marc Levin, Texas Public Policy Foundation Center for Effective Justice; Jodie Smith, Texans Care for Children; Ana Yáñez-Correa, Texas Criminal Justice Coalition; Michael Gutierrez)

Against — Reinaldo Chavez, Dallas County; Gary Brazil; John Payton

On — Shelai Mullins; (*Registered, but did not testify*: Phyllis Mathison; Sheryl Tumlinson)

BACKGROUND: Education Code, sec. 25.085 is the compulsory school attendance law, which requires children to attend school unless specifically exempt under other sections of the code. Children are required to attend school if they are at least six years old and younger than 18 years old, or younger than six and had previously been enrolled in first grade. Persons who voluntarily enroll in school or attend school after their 18th birthday are required to attend school each day for the entire period the program of instruction is offered. School districts can adopt policies requiring these

students who are over 18 years old to attend school until the end of the school year, and the failure-to-attend laws apply to these students.

Children who are truant from school can be handled either in local or juvenile courts. Education Code, sec. 25.094(a) makes it class C misdemeanor (maximum fine of \$500) for an individual who is required to attend school to fail to attend on 10 or more days within a six-month period in the same school year or three or more days within a four-week period. This offense can be prosecuted in municipal or justice courts, or if the county where the student lives has a population of over 2 million (Harris and Dallas), in a constitutional county court. Truancy also is considered “conduct indicating a need for supervision” under Family Code, sec. 51.03(b)(2) and is a civil matter when handled through juvenile probation and the juvenile courts.

DIGEST:

CSSB 1489 would prohibit the issuance of class C misdemeanor tickets for failure to attend school to students 10 and 11 years old and to students over 18 years old. It also would require school districts to adopt truancy prevention measures.

Failure to attend school. CSSB 1489 would revise the provisions making it a class C misdemeanor for failing to attend school so that it would be an offense only if a child was 12 years old or older and younger than 18. The Family Code provisions on conduct indicating a need for supervision for truancy would apply to students at least 10 years old who were alleged or found to be truant before turning 18 years old.

The offense of failing to attend school no longer would apply to persons who were over 18 but under 21 years old and voluntarily enrolled in school in a district that had a policy requiring them to attend school until the end of the school year.

The bill would limit juvenile court orders relating to truancy, making them effective for no more than 180 days after being ordered or to the end of the school year, whichever was longer.

Truancy prevention. CSSB 1489 would require school districts to adopt truancy prevention measures. The measures would have to be designed to:

- address student conduct related to truancy;
- minimize the need for referrals to juvenile court for truancy; and

- minimize the filing of complaints in county, justice, and municipal courts alleging failure to attend school.

All referrals to juvenile court for truancy and complaints filed in county, justice, or municipal court for failure to attend school would have to be accompanied by a statement from the student's school that the school applied the truancy prevention measures required by CSSB 1489 and that they failed to address the student's school attendance, and would have to specify whether the student was eligible for or received special education services.

CSSB 1489 would require school attendance officers to apply the truancy prevention measures required under the bill. If those measures failed to meaningfully address a student's conduct, the officer could take the currently authorized actions of referring a student to a juvenile court or filing a court complaint against a student or parent.

Dismissal of complaints, expunction of records. CSSB 1489 would require county, justice, and municipal courts to dismiss complaints alleging failure to attend if persons successfully complied with the conditions required by the court or if they gave the court proof that they had obtained a high school diploma or high school equivalency certificate.

CSSB 1489 would require courts to expunge failure to attend convictions, regardless of previous convictions, if the person had successfully complied with conditions imposed by the court or had obtained a high school diploma or high school equivalency certificate before turning 21 years old.

Juvenile case managers. The bill would allow the collection of a currently authorized \$5 fee, which can be imposed on persons convicted of fine-only misdemeanors in municipal, justice, and county courts and county courts at law, only if a court employed a juvenile case manager.

CSSB 1489 would eliminate the current requirement that juvenile case managers work primarily on failure to attend cases.

The bill would take effect September 1, 2011, and would apply only to conduct that occurred on or after that date.

SUPPORTERS
SAY:

CSSB 1489 is needed to deal with the inappropriate ticketing of very young children for not attending school. Currently, school districts have

the option of handling these students by issuing them a class C misdemeanor ticket for failure to attend, and many do. In some cases, this authority has been used to ticket very young students, and this inappropriately draws young children into the criminal justice system for actions that are not criminal and would be best handled by other means. In other situations, tickets have been used without first using other methods to address the students' school absences.

CSSB 1489 would address the first problem by limiting ticketing for failure to attend school to students at least 12 years old. This would eliminate the extreme cases of 10- and 11-year olds being dragged into the criminal justice system when they do not meet attendance requirements. Schools would continue to have other options to handle these young students if they failed to attend school, including referring the case as a civil matter to the juvenile probation and juvenile courts systems. By limiting – but not completely prohibiting – the use of tickets for failure to attend, CSSB 1489 would allow local districts to retain this tool for handling older students.

Ticketing practices vary across districts, so a uniform, statewide policy that eliminates ticketing for the youngest students is needed to ensure that all of these young students are kept out of the criminal justice system. The bill also would establish a uniform policy for dismissals and expunctions to ensure courts handle these cases fairly when students comply with conditions imposed on them or earn high school diplomas or equivalency certificates. This would decrease the number of juveniles with criminal records for school absences for which they have made amends by meeting all court requirements.

CSSB 1489 would encourage districts to try other methods before ticketing students who did not attend school or before referring them to juvenile court. The bill would require school districts to adopt truancy prevention measures and would require districts to show courts that the measures were tried and failed before a student was referred to juvenile court or ticketed.

The requirements in CSSB 1489 would not be burdensome to districts, and some already may use truancy measures that meet the bill's requirements. The importance of keeping students in school and handling truancy appropriately would warrant the requirement that truancy prevention measures be adopted by districts.

CSSB 1489 would allow local courts to continue to use juvenile court managers and to fund them through the currently authorized \$5 fee. The bill would ensure that the fee was paid only in appropriate circumstances by requiring that it be collected only if a court employed a juvenile case manager.

OPPONENTS
SAY:

By limiting who could receive tickets for failure to attend school, CSSB 1489 could reduce the tools available to school districts to handle students with unexcused absences. Some municipal and justice courts have developed programs and services to address failure to attend school, and in some cases – even for very young students – these might be the best option. The flexibility in current law to handle students who do not attend school in various ways should not be reduced.

CSSB 1489 should not eliminate the authority to ticket students over 18 years old for failure to attend school. In many cases, tickets can get the attention of these older students and encourage them to return to school.

Requiring all school districts to adopt truancy prevention measures could impose added costs on many districts.

OTHER
OPPONENTS
SAY:

CSSB 1489 would not go far enough in limiting tickets. Tickets should not be permissible for failure to attend school, no matter what a student's age. At the least, ticketing should be limited to the very oldest students.

NOTES:

Rep. Madden plans to offer a floor amendment that would allow students 18 and older to continue to receive tickets as they can under current law.

The committee substitute made several changes to the Senate-passed version of the bill, including making the offense of failing to attend school no longer apply to persons who are over 18 years old and eliminating provisions that would have prohibited municipal courts from prosecuting failure to attend school and from employing juvenile case managers.