

- SUBJECT:** Amending court procedures and services for truancy offenses
- COMMITTEE:** Juvenile Justice and Family Issues — committee substitute recommended
- VOTE:** 6 ayes — Dutton, Hughes, Peña, Rose, Sanford, J. White
- 0 nays
- 1 present not voting — Riddle
- WITNESSES:** For — David Cobos, Justices of the Peace and Constables Association of Texas; Lisa Tomlinson, Texas Probation Association; Greg Glod, Texas Public Policy Foundation; (*Registered, but did not testify:* T.J. Patterson, City of Fort Worth; Ron Quiros, Guadalupe County Juvenile Services; John Kreager, Texas Criminal Justice Coalition; Yannis Banks, Texas NAACP; Nellie Reyes; Daniel Segura)
- Against — None
- On — (*Registered, but did not testify:* Charles Reed, Dallas County Commissioners Court)
- BACKGROUND:** Education Code, sec. 25.094 makes it a class C misdemeanor (maximum fine of \$500) for an individual who is required to attend school and is between the ages of 12 and 17 to fail to attend school on 10 or more days or parts of days within a six-month period or on three or more days or parts of days within a four-week period. Offenses may be prosecuted in municipal or justice courts or in constitutional county court if the county where the student lives or where the school is located has a population of 1.75 million or more. Parents also may be found guilty of the offense of being a parent contributing to school nonattendance, under Education Code, sec. 25.093.
- 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.

Some have advocated for reforms to these truancy policies, stating that many students who miss school may do so because of economic reasons and should not be burdened with a criminal record for something over which they had no control.

DIGEST: CSHB 2398 would make several changes to the Government Code, Code of Criminal Procedure, Family Code, and Local Government Code to amend the court processes and responses for truancy cases.

Judicial donation trust. CSHB 2398 would enable the creation of judicial donation trusts, which could accept gifts, grants, donations, or other funds from public or private sources to provide money for resources and services that would eliminate barriers to school attendance or would prevent other criminal behavior.

These accounts would be held outside of municipal or county treasuries and would be administered by the governing body of a municipality or the commissioners court of a county. These entities also would be responsible for developing necessary procedures and eligibility requirements for receiving and disbursing funds. In general, awards would be made from the funds to children and families who appeared before the court for truancy or curfew violations or another misdemeanor offense.

Dismissal of truancy-related charges. CSHB 2398 would permit a court, within its discretion, to dismiss a truancy charge under Education Code, sec. 25.094 or a parent contributing to school nonattendance charge under Education Code, sec. 25.093 if the court found that a dismissal would be in the interest of justice because there was a low chance of recidivism or sufficient justification existed for the child's failure to attend school.

The bill also would permit a court to dismiss, with prejudice, a child in need of supervision case under Family Code, sec. 51.03 for truancy based on the same criteria.

Automatic expunction of truancy records. Students convicted of a

truancy offense or who had a truancy complaint dismissed would be entitled to have the conviction or complaint and related records automatically expunged. The court handling the case would be required to order the records, including documents in possession of the school district or a law enforcement agencies, to be expunged from the student's record. After a court entered an expunction order, the conviction or complaint could not be shown or made known for any purpose. The court would be required to tell the student of the expunction.

CSHB 2398 would take effect September 1, 2015, and courts could dismiss truancy cases under the bill's provisions only for conduct that occurred on or after that date. The bill's provisions regarding expunction of truancy records under the Code of Criminal Procedure would apply only to the expunction or destruction of any records or files existing on or after the effective date of the bill, regardless of when the offense or conduct took place.