

State Compulsory School Attendance Laws: Notice of Violation

Sec. 25.085. COMPULSORY SCHOOL ATTENDANCE

(a) A child who is required to attend school under this section shall attend school each school day for the entire period the program of instruction is provided.

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

(c) On enrollment in prekindergarten or kindergarten, a child shall attend school.

(d) Unless specifically exempted by Section 25.086, a student enrolled in a school district must attend:

(1) an extended-year program for which the student is eligible that is provided by the district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Section 29.084;

(2) an accelerated reading instruction program to which the student is assigned under Section 28.006(g);

(3) an accelerated instruction program to which the student is assigned under Section 28.0211; or

(4) a basic skills program to which the student is assigned under Section 29.086.

(e) A person who voluntarily enrolls in school or voluntarily attends school after the person's 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. 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 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.

Sec. 25.086. EXEMPTIONS

(a) A child is exempt from the requirements of compulsory school attendance if the child:

(1) attends a private or parochial school that includes in its course a study of good citizenship;

(2) is eligible to participate in a school district's special education program under Section 29.003 and cannot be appropriately served by the resident district;

(3) has a physical or mental condition of a temporary and remediable nature that make the child's attendance infeasible and holds a certificate from a qualified physician specifying the temporary condition, indicating the treatment prescribed to remedy the temporary condition, and covering the anticipated period of the child's absence from school for the purpose of receiving and recuperating from that remedial treatment;

(4) is expelled in accordance with the requirements of law in a school district that does not participate in a

mandatory juvenile justice alternative education program under Section 37.011;

(5) is at least 17 years of age and:

(A) is attending a course of instruction to prepare for the high school equivalency examination, and:

(i) has the permission of the child's parent or guardian to attend the course;

(ii) is required by court order to attend the course;

(iii) has established a residence separate and apart from the child's parent, guardian, or other person having lawful control of the child; or

(iv) is homeless as defined by U.S.C. Section 11302; or

(B) has received a high school diploma or high school equivalency certificate;

(6) is at least 16 years of age and is attending a course of instruction to prepare for the high school equivalency examination, if:

(A) if the child is recommended to take the course of instruction by a public agency that has supervision or custody of the child under a court order; or

(B) the child is enrolled in a Job Corps training program under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.);

(7) is at least 16 years of age and is enrolled in a high school diploma program under Chapter 18;

(8) is enrolled in the Texas Academy of Mathematics and Science under Subchapter G, Chapter 105;

(9) is enrolled in the Texas Academy of Leadership in the Humanities;

(10) is enrolled in the Texas Academy of Mathematics and Science at the University of Texas at Brownsville;

(11) is enrolled in the Texas Academy of International Studies; or

(12) is specifically exempted under the law.

Sec. 25.087. EXCUSED ABSENCES

(a) A person required to attend school, including a person required to attend school under Section 25.085 (e), may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled.

(b) A school district shall excuse a student from attending school for:

(1) the following purposes, including travel for those purposes:

(A) observing religious holy days; or

(B) attending a required court appearance; or

(2) a temporary absence resulting from health care professionals if that student commences classes or returns to school on the same day of the appointment.

(c) A school district may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran. A student whose absence is excused under Subsection (b) may not be penalized for that absence and shall be counted as if the student attended school for the purposes of calculating the average daily attendance of students in the school district. A student whose absence is excused under Subsection (b) shall be allowed a reasonable time to make up school work missed on those

days. If the student satisfactorily completes the work, the day of absence shall be counted as a day of compulsory attendance.

Sec. 25.093. PARENT CONTRIBUTING TO NONATTENDANCE

(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 25.094, the parent commits an offense.

(b) The attendance officer or other appropriate school official shall file a complaint against the parent in:

(1) the constitutional county court of the county in which the parent resides or in which the school is located, if the county has a population of two million or more;

(2) a justice court of any precinct in the county in which the parent resides or in which the school is located; or

(3) a municipal court of the municipality in which the parent resides or in which the school is located.

(c) An offense under Subsection (a) is a Class C misdemeanor. 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 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.

(d) A fine collected under this section shall be deposited as follows:

(1) one-half shall be deposited to the credit of the operating fund of, as applicable:

(A) the school district in which the child attends school;

(B) the open enrollment charter school the child attends; or

(C) the juvenile justice alternative education program that the child has been ordered to attend; and

(2) one-half shall be deposited to the credit of:

(A) the general fund of the county, if the complaint is filed in the justice court or the constitutional county court; or

(B) the general fund of the municipality, if the complaint is filed in municipal court.

(e) At the trial of any person charged with violating this section, the attendance records of the child may be presented in court by any authorized employee of the school district, or open-enrolled charter school as applicable.

(f) The court in which a conviction, deferred adjudication, or deferred disposition for an offense under Subsection (a) occurs may order the defendant 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 students' unexcused absences and in developing strategies for resolving those problems if a program is available.

(g) If a parent refuses to obey a court order entered under this section, the court may punish the parent for contempt of court under Section 21.002, Government Code.

(h) It is an affirmative defense to prosecution for an offense under Subsection (a) that one or more of the absences required to be proven under Subsection (a) was excused by a school official or should be excused by the court. The burden is on the defendant to show by a preponderance of the evidence that the absence has been or should be excused. A decision by the court to excuse an absence for purposes of this section does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

(i) In this section, "parent" includes a person standing in parental relation.

Sec. 25.094. FAILURE TO ATTEND SCHOOL

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

(1) is required to attend school under Section 25.085; and

(2) fails to attend school on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period.

(b) An offense under this section may be prosecuted in:

(1) a constitutional county court of the county in which the individual resides or in which the school is located, if the county has a population of two million or more;

(2) a justice court of any precinct in the county in which the individual resides or in which the school is located; or

(3) a municipal court in the municipality in which the individual resides or in which the school is located.

(c) On a finding by the county, justice, or municipal court that the individual has committed an offense under Subsection (a) or on a finding by a juvenile court in a county with a population of less than 100,000 that the individual has engaged in conduct that violates Subsection (a), the court may enter an order that includes one or more of the requirements listed in Article 45.054, Code of Criminal Procedure, as added by Chapter 1514, Acts of the 77th Legislature, Regular Session, 2001.

(d) If the county, justice, or municipal court believes that a child has violated an order issued under Subsection (c), the court may proceed as authorized by Article 45-050 Code of Criminal Procedure.

(d-1) Pursuant to an order of the county, justice or municipal court based on an affidavit showing probable cause to believe that an individual has committed an offense under this section, a peace officer may take the individual into custody. A peace officer taking an individual into custody under this subsection shall:

(1) promptly notify the individual's parent, guardian, or custodian of the officer's action and the reason for that action; and

(2) without unnecessary delay:

(A) release the individual to the individual's parent, guardian, or custodian or to another responsible adult, if the person promises to bring the individual to the county, justice, or municipal court as requested by the court; or

(B) bring the individual to a county, justice, or municipal court with venue over the offense.

(e) An offense under this section is a Class C misdemeanor.

(f) It is an affirmative defense to prosecution under this section that one or more of the absences required to be proven under Subsection (a) were 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 an offense under this section. The burden is on the defendant to show by a preponderance of the evidence that the absence has been excused or that the absence was involuntary. A decision by the court to excuse an absence for purposes of this section does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

(g) It is an affirmative defense to prosecution under this section that one or more of the absences required to be proven under Subsection (a) was involuntary. The burden is on the defendant to show by a preponderance of the evidence that the absence was involuntary.

Sec. 25.095. WARNING NOTICES

(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 juvenile court in a county with a population of less than 100,000 for conduct 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 parent is subject to prosecution under Section 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 Subsection (a) or (b) does not create a defense to prosecution under Section 25.093 or 25.094.

(d) In this section, "parent" includes a person standing in parental relation.

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 juvenile court for conduct indicating a need for supervision under Section 51.03 (b) (2), Family Code.

(b) 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 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 section, "parent" includes a person standing in parental relation.

(d) A court shall dismiss a complaint or referral made by a school district under this section that is not made in compliance with this section.

Sec. 25.0952. PROCEDURES APPLICABLE TO SCHOOL ATTENDANCE-RELATED OFFENSES

In a 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.

Sec. 51.03 DELINQUENT CONDUCT; CONDUCT INDICATING A NEED FOR SUPERVISION (FAMILY CODE)

(b) Conduct indicating a need for supervision is:

(2) the absence of a child on 10 or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school.

Sec. 54.021 COUNTY, JUSTICE, OR MUNICIPAL COURT: TRUANCY. (FAMILY CODE).

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to the constitutional county court, if the county has a population of two million or more, or to an appropriate justice or municipal court, with the permission of the county, justice, or municipal court, for disposition in the manner provided by Subsection (b) if the child is alleged to have engaged in conduct described in Section 51.03(b)(2). A waiver of jurisdiction under this subsection may be for an

individual case or for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2). The waiver of a juvenile court's exclusive original jurisdiction for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) is effective for a period of one year.

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

- (1) the juvenile court has waived its original jurisdiction under this section; and
 - (2) a complaint is filed by the appropriate authority in the county, justice, or municipal court charging an offense under Section 25.094, Education Code.
- (c) A proceeding in a county, justice, or municipal court on a complaint charging an offense under Section 25.094, Education Code, is governed by Chapter 45, Code of Criminal Procedure.
- (d) Notwithstanding any other law, the costs assessed in a case filed in or transferred to a constitutional county court for an offense under Section 25.093 or 25.094, Education Code, must be the same as the costs assessed for a case filed in a justice court for an offense under Section 25.093 or 25.094, Education Code.
- (e) The proceedings before a constitutional county court related to an offense under Section 25.093 or 25.094, Education Code, may be recorded in any manner provided by Section 30.00010, Government Code, for recording proceedings in a municipal court of record.

- (A) an alcohol and drug abuse program;
 - (B) rehabilitation;
 - (C) counseling, including self-improvement counseling;
 - (D) training in self-esteem and leadership;
 - (E) work and job skills training;
 - (F) training in parenting, including parental responsibility;
 - (G) training in manners;
 - (H) training in violence avoidance;
 - (I) sensitivity training; and
 - (J) training in advocacy and mentoring;
- (3) The person and the person's parents, managing conservator, or guardian attend a class designated for students at risk of dropping out of school designed for both the person and the person's parents, managing conservator, or guardian;
- (4) The person complete reasonable community service requirements.
- (5) The person's driver's license be suspended in the manner provided by Section 54.042 of this code.
- (6) The person attend school without unexcused absences; or
- (7) The persons participate in a tutorial program provided by the school attended by the person in the academic subjects in which the person is enrolled for a total number of hours ordered by the court.
- (e) A school attendance officer may refer a person alleged to have engaged in conduct described in Section 51.03 (b) (2) of this code to a justice court in the county where the person resides or where the person's school is located or to a municipal court of the municipality where the person resides or where the person's school is located if the juvenile court having exclusive original jurisdiction has waived its jurisdiction as provided by Subsection (a) of this section for all cases involving conduct described by Section 51.03 (b) (2) of this code.

Law 2007-2008

CHAPTER 45 ARTICLES 45.054. FAILURE TO ATTEND SCHOOL PROCEEDINGS (CODE OF CRIMINAL PROCEDURE)

(c) On a finding that a person has engaged in conduct described by Section 51.03 (b) (2) or conduct that violates Section 25.094, Educational Code, the justice or municipal court shall enter an order appropriate to the nature of the conduct.

(d) On a finding by the justice or municipal court that the person has engaged in truant conduct described in Section 51.03 (b) (2) or conduct that violates Section 25.094, Educational Code, the court has jurisdiction To Whom It May Concern: enter an order that includes one or more of the following provisions requiring that:

- (1) The person do either or both of the following:
 - (A) attend a preparatory class for the high school equivalency examination provided under Section 7.111, Education Code, if the court determines that the person is too old to do well in a formal classroom environment; or
 - (B) if the person is at least 16 years of age, take the high school equivalency examination provided under Section 7.111, Education Code;
- (2) The person attend a special program that the court determines to be in the best interest of the person, including:

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