

**TRANSITIONING TO TITLE 3A OF THE FAMILY CODE:
BEFORE AND AFTER H.B. 2398**

(84th Regular Legislature 2015)

Texas Municipal Courts Education Center (version July 22, 2015)

Issue	Prior to H.B. 2398	After H.B. 2398	Comments
1. Proceedings	Chapter 25, Education Code (EC), Chapter 45, CCP (Criminal Proceedings)	Title 3A, Chapter 65, Family Code (FC) (Civil Proceedings)	Title 3A is contained in Section 27 of HB 2398
		SUBCHAPTER A: GENERAL PROVISIONS (§§65.001-65.017, FC)	
2. Who is the Accused?	“Individual” Art. 45.054, CCP; age 12-17, Sec. 25.094(a), EC (Ed. C)	“Child” age 12-18; Sec 65.002, FC	Definitions for 3A are in Sec. 65.002, FC
3. Prohibited Conduct by Student	Sec. 25.094, EC <i>Failure to Attend School</i>	65.003, FC: <i>Truant Conduct</i>	Additionally, <i>Truancy</i> , is no longer defined as CINS in Sec. 51.03, FC
4. Parent Contributing to Non-Attendance	Sec. 25.093, EC	No Change; Still a Criminal Offense	Range of fine subject to new ladder and subject to “interest of justice” dismissal under Art. 45.0531, CCP.
5. Jurisdiction	Various criminal courts and juvenile court (as truancy) Sec. 51.03, FC; Article 4.14; Sec. 29.003, Govt. Code	§65.004, FC: Exclusive jurisdiction belongs to truancy courts	Unlike in municipal & justice court, there is no permissive/ mandatory transfer from a truancy court to a juvenile court per Sec. 51.08, FC
6. Court Sessions	No Equivalent Provision	Sec. 65.005, FC	
7. Venue	Sec. 25.094(b), EC	Sec. 65.006, FC	
8. Right to Jury Trial	Art. 1.12, CCP	§65.006, FC	
9. Waiver of Rights	Art. 1.14, CCP	§65.008, FC	
10. Effect of Adjudication	No Equivalent Provision	§65.009, FC	Truant Conduct is not a Crime
11. Burden of Proof	Art. 38.03, CCP Beyond a Reasonable Doubt	§65.010, FC Beyond a Reasonable Doubt	
12. Discovery	Art. 39.14, CCP	§65.011, FC	65.011 refers to 39.14 for applicable rules
13. Procedural Rulemaking Authority	No Equivalent Provision	§65.012, FC Texas Supreme Court may make additional rules (procedural and for informal disposition)	
14. Interpreters	Art. 38.30, CCP	§65.013, FC	
15. Digital or Electronic Signatures	Art. 2.26 & 45.012, CCP	§65.014, FC	
16. Public Access to Court Hearings	Art. 1.24, CCP	§65.015, FC Hearings are open to public except for good cause shown	§65.015(b) is patterned after Art. 36.05, CCP (“The Rule”)

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17. Recording of Proceedings	Chapter 29, 30, CCP	§65.016, FC No authorization for recording unless court of record.	Authorization for recording in courts of record is puzzling. Appeals are de novo (§65.151(b), FC)
18. Juvenile Case Managers	Art. 45.056, CCP	§65.017, FC	
		SUBCHAPTER B: INITIAL PROCEDURES (§§65.051-65.065, FC)	
19. Referral to Court	§25.0915, EC	§65.051, FC Referrals and dismissals remain governed by §25.0915, EC	The revisions to §25.0915, EC in Section 9 of the bill are substantively revised.
20. Truant Conduct Prosecutor	Art. 45.201, CCP	§65.052, FC	
21. Review by Prosecutor	No Equivalent Provision	§65.053, FC	Intake and review of Truant Conduct is distinct from the rules governing criminal “school offenses” in §37.146(b) & §37.147, EC.
22. Formal Allegation	Art. 45.018-.019, CCP; §25.0915(b)-(c), EC §25.0951(d), EC <i>Complaint</i>	§65.054, FC <i>State’s Petition</i>	
23. Limitations Period	§25.0915, EC Art. 12.02(b), CCP	§65.055, FC Petitions may not be filed after the 45 th date of last date of Truant Conduct	Under §25.0915(c), EC the judge determines if the limitations period is tolled because of the use of truancy prevention measures (§25.0915(d), EC.).
24. Hearing Date	No Equivalent Provision	§65.056, FC	
25. Summons	Art. 45.0215, CCP	§65.057, FC	
26. Service of Summons	Art. 45.0215, CCP	§65.058, FC	
27. Representation by Attorney	Art. 1.051, CCP	§65.059, FC Counsel may be appointed but is not required; Parents, barring indigence, may be order to hire counsel	
28. Child’s Answer	Arts. 1.14, 45.022-.024, 45.0215, CCP	§65.060, FC	
29. Guardian Ad Litem	No Equivalent Provision	§65.061, FC	
30. Attendance at Hearing	Art. 45.0215, CCP	§65.062, FC	
41. Right to Reemployment	No Equivalent Provision	§65.063, FC	
42. Subpoena of Witness	Chapter 24, CCP	§65.064, FC	
43. Child Alleged to be Mentally Ill	§8.08, Penal Code	§65.065, FC	

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		SUBCHAPTER C: ADJUDICATION HEARINGS AND REMEDIES (§§65.101- 65.109, FC)	
44. Adjudication Hearing, Judgment	No Equivalent Provision	§65.101, FC	
45. Remedial Actions	No Equivalent Provision,	§65.102, FC	
46. Remedial Order	Art. 45.054, 45.057, CCP	§65.103, FC	
47. Maximum Time Remedial Order is Effective	No Equivalent Provision	§65.104, FC	
48. Orders Affecting Parents and Others	Art. 45.054, 45.057, CCP	§65.105, FC	
49. Liability of Claims Arising from Community Service	Art. 45.0492, CCP	§65.106, FC	
50. Court Cost	Chapters 102, 103, Government Code	§65.107, FC If able to pay, \$50.00 retained locally to defray costs of Truancy Court; May be charged to parent/guardian	
51. Hearing to Modify Remedy	No Equivalent Provision	§65.108, FC	
52. Motion for New Trial	Art. 45.037, CCP/Ch. 30, GC	§65.109, FC	
		SUBCHAPTER D: APPEALS (§§65.151- 65.153, FC)	
53. Right to Appeal	Ch. 44, CCP; Art. 45.057, CCP/Ch. 30, GC.	§65.151, FC	
54. Governing Law on Appeal	Ch. 44, CCP; Art. 45.057, CCP/Ch. 30, GC.	§65.152, FC	
55. Counsel on Appeal	Art. 1.051, CCP	§65.153, FC	
		SUBCHAPTER E: RECORDS (§§65.201- 65.203, FC)	
56. Sealing of Records	Art. 44.2811, 45.0217, CCP	§65.201, FC	
57. Confidentiality of Records	Art. 44.2811, 45.0217, CCP	§65.202, FC	
58. Destruction of Certain Records	Art. 45.0216, CCP	§65.203	
		SUBCHAPTER F: ENFORCEMENT (§§65.251-65.259, FC)	
59. Failure to Obey Truancy Court Order, Child in Contempt	Art. 45.050, CCP	§65.251, FC	
60. Proceedings in Juvenile Court	Art. 45.050, CCP	No Equivalent Provision	
61. Parent or Other Person in Contempt	Art. 45.054, 45.057, CCP; §21.002, GC.	§65.253, FC	

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62. Writ of Attachment	Art. 24.011, 45.054, 45.057, CCP	§65.254, FC	
63. Order against Parent or Other Person	Art. 45.054, 45.057, CCP	§65.255, FC	
64. Appeal of Enforcement (Parent or Other Person)	Art. 45.042, CCP	§65.256, FC	
65. Motion for Enforcement	No Equivalent Provision	§65.257, FC	
66. Notice and Appearance, re: Motion for Enforcement	Art. 45.050, CCP	§65.258, FC	
67. Conduct of Enforcement Hearing	Art. 45.050, CCP	§65.259, FC	