

H.B. No. 2398

AN ACT

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

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

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

(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

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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~~].

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

(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

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(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) [~~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 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.

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, 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

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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.

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 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).

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

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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.

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 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).

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~~

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~~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 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

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of a 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].~~

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:

(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 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:

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(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 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 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-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~~].

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 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.

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 truant 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 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~~].

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 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].~~

~~[(e)]~~ 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.

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 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.

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 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 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;

(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.

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 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~~]

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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).

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

(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 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.

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

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

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

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

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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.

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

(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 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)~~].

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 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 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

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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.

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);

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

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(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.

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

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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. 65.002. 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.

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

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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.

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

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. 65.007. 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 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. 65.009. 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. 65.010. BURDEN OF PROOF. A court or jury may not return a finding that a child has engaged in truant conduct unless the state has proved the conduct beyond a reasonable doubt.

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. 65.012. 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. 65.013. 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.

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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. 65.015. 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. 65.016. 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. 65.017. 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.

SUBCHAPTER B. INITIAL PROCEDURES

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. 65.052. 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. 65.053. 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. 65.054. 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 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.

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. 65.056. 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. 65.057. 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.

Sec. 65.058. SERVICE OF SUMMONS. (a) If a person to be

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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.

Sec. 65.059. REPRESENTATION BY ATTORNEY. (a) A 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.

Sec. 65.060. CHILD'S ANSWER. After the petition has been

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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. 65.061. 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

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issue the order only after determining that the parent or other responsible person has sufficient financial resources to offset the cost of the child's guardian ad litem wholly or partly.

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.

(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.

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.

(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:

- (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.

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. 65.065. 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 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.

SUBCHAPTER C. ADJUDICATION HEARING AND REMEDIES

Sec. 65.101. ADJUDICATION HEARING; JUDGMENT. (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

(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.

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 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.

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;

(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

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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.

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 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 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 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 the cost of the operations of the truancy court.

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. 65.109. 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, 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. 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 whether that attorney will handle the appeal.

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

SUBCHAPTER E. RECORDS

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 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.

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 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.

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.

SUBCHAPTER F. ENFORCEMENT OF ORDERS

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:

- (1) that the child pay a fine not to exceed \$100; or
- (2) that the Department of Public Safety suspend the

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child's driver's license or permit or, if the child does not have a 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 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).

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:

(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.

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 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.

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. 65.255. 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. 65.256. 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. 65.257. 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. 65.258. 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.

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(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.

Sec. 65.259. CONDUCT OF ENFORCEMENT HEARING. (a) The movant

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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 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.

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 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).

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 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 which the case arose, for:

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

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

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. 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 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

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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 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

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Section 25.093 [~~er 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.

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 [~~er 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 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~~

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~~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.

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 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) truant 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.

SECTION 37. Section 102.021, Government Code, is 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, 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. 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;

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(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.

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;

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

(3) a fee for verification of and monitoring of motor vehicle ignition interlock (Art. 17.441, Code of Criminal Procedure) . . . not to exceed \$10;

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

(3-b) costs associated with providing a defendant's

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

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

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

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

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

(8) family violence center fee (Art. 42.12, Code of

Criminal Procedure) . . . \$100;

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

(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 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;

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(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 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.

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

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of \$50 under Section 65.107, Family Code, if ordered by the truancy  
court.

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

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

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.

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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 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 44. This Act takes effect September 1, 2015.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2398 was passed by the House on May 13, 2015, by the following vote: Yeas 140, Nays 0, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2398 on May 27, 2015, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2398 on May 30, 2015, by the following vote: Yeas 118, Nays 27, 2 present, not voting.

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Chief Clerk of the House

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I certify that H.B. No. 2398 was passed by the Senate, with amendments, on May 24, 2015, by the following vote: Yeas 27, Nays 3; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2398 on May 30, 2015, by the following vote: Yeas 27, Nays 4.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor