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FACT SHEET 2015

CSHB 93

Stop Treating Truancy as an Adult Criminal Offense

Decriminalizing Truancy and Shifting the Responsibility to Schools Will Alleviate Court Dockets, Reduce the Burden on Families, and Help Youth Access Behavioral Services

TEXAS HANDLES TRUANCY AS A MISDEMEANOR IN ADULT CRIMINAL COURT, WHICH IS INEFFECTIVE AND UNFAIRLY DISADVANTAGES STUDENTS AND FAMILIES

In Texas, the vast majority of truancy cases are heard in adult criminal courts as a Class C misdemeanor called “failure to attend school” (FTAS).¹ Lawmakers gave Justice of the Peace and Municipal Courts the authority to hear FTAS cases in 1993 in an effort to alleviate the burden of truancy cases on juvenile court dockets. Like any other Class C misdemeanor, FTAS is an **adult criminal conviction** that carries up to a \$500 fine, gives the student a public criminal record, and can lead to arrest and incarceration if the fine remains outstanding when a student turns 17.²

Sadly, shifting truancy cases from juvenile courts to adult criminal courts has not corrected the magnitude of the school attendance problem. In 2014 alone, there were 88,063 FTAS complaints filed against students between Justice of the Peace and Municipal Courts, and the specialized truancy courts in Dallas and Fort Bend Counties.³ Also problematic, Justice of the Peace and Municipal Courts are designed to process large numbers of fine-only offenses like traffic offenses, not provide social services to needy individuals. The dedicated truancy courts in Dallas, for example, collect about \$2 million per year;⁴ and while some exceptional courts have developed successful truancy programs to address students’ needs, most courts simply assign a fine and move on. This is despite the fact that **research indicates that the root causes of truancy often lie in family and community factors that are largely outside a student’s control.**⁵

Nevertheless, the FTAS offense continues to subject students—who are indigent by definition as minors—to expensive fines that place a significant burden on low-income families. The legal and financial obligations imposed by adult criminal courts can cause students to miss further school time to appear at hearings. Further, Class C citations disproportionately impact certain student populations, including African-American students, Hispanic students,⁶ and students with intellectual disabilities.⁷

KEY FINDINGS

- Failure to Attend School is a Class C misdemeanor that is heard in adult criminal courts, carries a fine of up to \$500, and is documented as a criminal (not juvenile) offense.⁸ Like any other Class C misdemeanor, **students are not entitled to be represented by an attorney** in these proceedings.
- Though schools are required to adopt truancy prevention measures, there are no minimum standards that these measures must adhere to in statute.⁹ This has led to **many school districts employing ineffective or superficial interventions**, instead relying on the court system to enforce compulsory school attendance.¹⁰
- Research demonstrates that the mere act of entering the formal justice system can negatively impact youth, **increasing their likelihood of future justice system involvement**, adding tension to the family dynamic, and stigmatizing them as “offenders” for conduct that is actually non-criminal.¹¹

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KEY FINDINGS (CONTINUED)

- Punitive sanctions—like fines or incarceration—have been shown to be ineffective at treating truancy and can actually **further alienate youth from school**.¹²
- Students who face persistent complications with the school disciplinary system are more likely to **drop out or become involved with the juvenile justice system**.¹³

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT CSHB 93 BY REPRESENTATIVE WHITE

- **CSHB 93 repeals “failure to attend school” as an adult criminal offense, meaning truancy cases can only be heard as a Child in Need of Supervision (CINS) offense in juvenile court.** Under CINS, students and their families will have access to remedial services designed to address their underlying needs, which are simply not available for adult Class C misdemeanors. While there is some concern that juvenile courts could not handle an influx of truancy cases, requiring schools to be more accountable for their students’ unexcused absences through progressive truancy interventions should drastically reduce the number of students referred to court. CSHB 93 will remove the trappings of criminality from student behavior and get students and families the services they need.
- **CSHB 93 requires schools to employ truancy intervention procedures that are designed to keep as many students as possible away from the court system.** At its core, truancy is a school problem. Texas law should reflect this by holding schools primarily responsible for their students’ attendance. CSHB 93 accomplishes this by requiring schools to implement truancy intervention procedures. Each school will have a school attendance enhancement facilitator (SAEF) to oversee and apply these procedures. Importantly, the SAEF can be an existing school truancy employee, but cannot be a peace officer. CSHB 93 requires the SAEF to take specific remedial actions to address the student’s underlying causes of truancy at one, two, and three or more unexcused absences. Going through these interventions before sending students to court will substantially reduce the burden that “failure to attend school” cases currently place on the court system by handling more of these cases in schools.
- **CSHB 93 provides for a streamlined expunction procedure for truancy records, and authorizes courts to set up judicial trust funds that accept donations and distribute those funds to needy students and families.**

Citations

¹ Tex. Educ. Code § 25.094.

² Deborah Fowler, *Criminalization of Truancy in Texas: Prosecution of “Failure to Attend School” in Adult Criminal Courts*, Texas Appleseed, 6.

³ Legislative Budget Board (LBB), *Texas State Government Effectiveness and Efficiency Report: Selected Issues and Recommendations* (January 2015), 10.

⁴ John W. Whitehead, *Move Over, Traffic Court, It’s Time for a New Money-Making Scheme—School Truancy Laws Jail Parents and Levy Excessive Fines*, The Rutherford Institute (March 4, 2013).

⁵ LBB, *Texas State Government Effectiveness and Efficiency Report*, 3.

⁶ Texas Appleseed, *Texas’ School-to-Prison Pipeline: Ticketing, Arrest, & Use of Force in Schools, How the Myth of the “Blackboard Jungle” Reshaped School Disciplinary Policy*, December 2010.

⁷ Ibid.

⁸ Texas Education Code § 25.094 and Texas Penal Code § 12.23.

⁹ Tex. Educ. Code § 25.0915.

¹⁰ LBB, *Texas State Government Effectiveness and Efficiency Report*, 1.

¹¹ Coalition for Juvenile Justice, *National Standards for the Care of Youth Charged with Status Offenses* (2013), 51-52.

¹² LBB, *Texas State Government Effectiveness and Efficiency Report*, 2.

¹³ Council of State Government, *Breaking School Rules: A Statewide Study of How School Discipline Relates to Students’ Success of Juvenile Justice Involvement*, July 2011.