

## CHAPTER 358

## H.B. No. 681

## AN ACT

relating to truancy; providing a penalty.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 54.021, Family Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(a) The juvenile court may waive its exclusive original jurisdiction and transfer a child to an appropriate justice court, *with the permission of the justice court*, for disposition in the manner provided by Subsection (b) of this section if the child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code. *A waiver of jurisdiction under this subsection may be for an individual case or for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code. The waiver of a juvenile court's exclusive original jurisdiction for all cases in which a child is alleged to have engaged in conduct described in Section 51.03(b)(2) of this code is effective for a period of one year.*

(b) A justice court may exercise jurisdiction over a child alleged to have engaged in conduct indicating a need for supervision by engaging in conduct described in Section 51.03(b)(2) in a case where the juvenile court has waived its original jurisdiction under this section. *A justice court may exercise jurisdiction under this section without regard to whether the justice of the peace for the court is a licensed attorney or the hearing for a case is before a jury consisting of six persons.*

(d) On a finding by the justice court that the child has engaged in truant conduct and that the conduct is of a recurrent nature, the court may enter an order that includes one or more of the following provisions requiring that:

(1) the child attend a preparatory class for the high school equivalency examination provided under Section 11.35, Education Code, if the court determines that the child is too old to do well in a formal classroom environment;

(2) the child attend a special program that the court determines to be in the best interests of the child, including an alcohol and drug abuse program;

(3) the child and the child's parents, managing conservator, or guardian attend a class for students at risk of dropping out of school designed for both the child and the child's parents, managing conservator, or guardian;

(4) the child complete reasonable community service requirements; [e]

(5) the child's driver's license be suspended in the manner provided by Section 54.042 of this code;

(6) *the child attend school without unexcused absences; or*

(7) *the child participate in a tutorial program provided by the school attended by the child in the academic subjects in which the child is enrolled for a total number of hours ordered by the court.*

(e) *An order under Subsection (d) of this section is enforceable in the justice court by contempt.*

(f) *A school attendance officer may refer a child alleged to have engaged in conduct described in Section 51.03(b)(2) of this code to the justice court in the precinct where the child resides or in the precinct where the child's school is located if the juvenile court having exclusive original jurisdiction has waived its jurisdiction as provided by Subsection (a) of this section for all cases involving conduct described by Section 51.03(b)(2) of this code.*

(g) *A court having jurisdiction under this section shall endorse on the summons issued to the parent, guardian, or custodian of the child who is the subject of the hearing an order directing the parent, guardian, or custodian to appear personally at the hearing and directing the person having custody of the child to bring the child to the hearing.*

(h) *A person commits an offense if the person is a parent, guardian, or custodian who fails to attend a hearing under this section after receiving notice under Subsection (g) of this section that the person's attendance was required. An offense under this subsection is a Class C misdemeanor.*

SECTION 2. Section 4.25(a), Education Code, is amended to read as follows:

(a) *If any parent or person standing in parental relation to a child, within the compulsory school attendance ages and not lawfully exempt or properly excused from school attendance, fails to require such child to attend school for such periods as required by law, it shall be the duty of the proper attendance officer to warn, in writing, the parent or person standing in parental relation that attendance must be immediately required. If after this warning the parent or person standing in parental relation intentionally, knowingly, recklessly, or with criminal negligence fails to require the child to attend school as required by law, the parent or person standing in parental relation commits an offense. The attendance officer shall file a complaint against him in the county court, in the justice court of his resident precinct, or in the municipal court of the municipality in which he resides or in the municipality or justice of the peace precinct in which the school is located. The attendance officer shall file a complaint under this section in the court to which the parent's child has been referred for engaging in conduct described in Section 51.03(b)(2), Family Code, if a referral has been made for the child. In addition, if the child has been voluntarily absent from school for 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 without the consent of his parents, the attendance officer shall refer the child to the county juvenile probation department for action as conduct indicating a need for supervision under Section 51.03(b), Family Code. A court in which a complaint is filed under this subsection shall give preference to a hearing on the complaint over other cases before the court. An offense under this section is a Class C misdemeanor [~~punishable by a fine of not less than \$5 nor more than \$25 for the first offense, not less than \$10 nor more than \$50 for the second offense, and not less than \$25 nor more than \$100 for a subsequent offense~~]. Each day the child remains out of school after the warning has been given or the child ordered to school by the juvenile court may constitute a separate offense. Two or more offenses under this section may be consolidated and prosecuted in a single action. If the court probates the sentence, the court may require the defendant to render personal services to a charitable or educational institution as a condition of probation.*

SECTION 3. Subchapter A, Chapter 4, Education Code, is amended by adding Section 4.251 to read as follows:

*Sec. 4.251. FAILURE TO ATTEND SCHOOL. (a) A child commits an offense if the child:*

*(1) is required to attend school under Section 21.032 of this code; and*

*(2) fails to attend school for 10 or more days or parts of days in a six-month period or three or more days or parts of days in a four-week period without an excuse as provided by Section 21.035 of this code.*

*(b) An offense under this section may be prosecuted in the justice court for the precinct in which the child resides or in which the school is located.*

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

(d) *Any person convicted of not more than one violation under this section while a minor, on attaining the age of 18 years, may apply to the court in which he was convicted to have the conviction expunged.*

(e) *The application shall contain the applicant's sworn statement that he was not convicted of any violation of this section while a minor other than the one he seeks to have expunged.*

(f) *If the court finds that the applicant was not convicted of any other violation of this section while he was a minor, the court shall order the conviction, together with all complaints, verdicts, sentences, and other documents relating to the offense, to be expunged from the applicant's record. After entry of the order, the applicant shall be released from all disabilities resulting from the conviction, and the conviction may not be shown or made known for any purpose.*

SECTION 4. Section 21.035(g), Education Code, is amended to read as follows:

(g) The absences of a student who returns to school as a result of a prosecution under Section 4.25 or 4.251 of this code or by order of a court may be excused if the student:

- (1) returns to school and attends class regularly and to the satisfaction of the district;
- (2) satisfactorily completes assignments for the period of the absence within a reasonable time determined by the district; and
- (3) passes an examination at the completion of the class.

SECTION 5. Section 21.039(a), Education Code, is amended to read as follows:

(a) A school attendance officer shall have the following powers and duties:

- (1) to investigate all cases of unexcused absences from school;
- (2) to administer oaths and to serve legal process;
- (3) to enforce the provisions of the compulsory attendance law;
- (4) to keep records of all cases of any kind investigated by him in the discharge of his duties;
- (5) to make all reports of his work required of him by the commissioner of education; and
- (6) to refer to a juvenile court or to a justice court if the juvenile court has waived jurisdiction as provided by Section 54.021(a), Family Code, any truant pupil who has unexcused voluntary absences for the amount of time specified under Section 51.03(b)(2), Family Code, or to file a complaint against any recalcitrant person having parental control as provided in Section 4.25 of this code, or to file a complaint against a pupil for a violation of Section 4.251 of this code.

SECTION 6. This Act takes effect September 1, 1993.

SECTION 7. (a) The change in law made by this Act applies only if the final absence that makes Section 51.03(b)(2), Family Code, applicable to a child's conduct occurs on or after the effective date of this Act.

(b) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(c) An offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 31, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 681 on May 18, 1993, by a non-record vote; passed by the Senate, with amendments, on May 10, 1993, by a viva-voce vote.

Approved May 31, 1993.

Effective Sept. 1, 1993.