

SUBJECT: Compulsory attendance requirements for public school students

COMMITTEE: Public Education — committee substitute recommended

VOTE: 7 ayes — Grusendorf, Oliveira, Branch, Delisi, Hochberg, B. Keffer,
Mowery

0 nays

2 absent — Dutton, Eissler

WITNESSES: (*On original version:*)
For — Raymond H. Bull, City of Benbrook

Against — Amy Beneski, Texas Association of School Administrators;
Marcia Rachofsky, Texas Mental Health Consumers and Youth and
Family Alliance, Inc. (Lifeworks); Theresa Tod, Texas Network of Youth
Services; Pam Uhr, ACLU of Texas; Sarah Winkler, Alief ISD and Texas
Association of School Boards; Benjamin J. Becerra; Claudette Fette,
Kerensa Kecbooth; Jessica Silva.

On — Russ Ridgway, Justice of the Peace, Precinct 5, Place 1, Harris
County

BACKGROUND: Under Education Code, sec. 25.094, it is a class C misdemeanor
(maximum fine of \$500) for a Texas public school student to be absent
from school for 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. Under sec. 25.093, it is a class C misdemeanor for a
parent to fail to require a child to attend school as required by law. Each
day the child remains out of school may constitute a separate offense. At
the beginning of each school year, districts must notify parents in writing
of these requirements and the penalties they face for offenses. Districts
also must notify parents in writing when a student accrues a sufficient
number of absences to constitute an offense.

If a county, justice, or municipal court issues an order based on probable
cause that a student has committed an offense, a peace officer may take
the individual into custody. The officer promptly must notify the student's

parent, guardian, or custodian of the officer's action and the reason behind it. Without unnecessary delay, the officer must release the individual to a parent, guardian, custodian, or another responsible adult if the person promises to bring the student to the county, justice, or municipal court as requested by the court.

Under sec. 25.091, a peace officer who is serving as an attendance officer has the power to investigate and enforce compulsory attendance requirements by referring a student to juvenile court or filing a complaint in a county, justice, or municipal court. The officer also has the authority to serve a court-ordered legal process, review school attendance records, maintain an investigative record on each compulsory attendance violation, make a home visit or otherwise contact the parents of a student who violates compulsory education requirements, and take a student into custody with the permission of the student's parent or in obedience to a court-ordered legal process.

DIGEST:

CSHB 316 would prohibit a student from being absent seven or more days within a three-month period in the same school year or three or more days within a four-week period. A school district would have to notify parents of this requirement in writing at the beginning of the school year.

If a student had unexcused absences for three days within a four-week period, the school would have to notify the student's counselor as well as a parent by telephone and in writing. The notice to parents would require a parent to attend a conference with school officials to review the legal consequences of a student's continued absences and to develop a specific plan to improve the student's attendance. The counselor would have to perform an assessment of the student, including the student's academic progress, to include in developing the student plan.

If a student missed school for more than seven days, the school district would file a complaint against the student or the student's parent in a county, justice, or municipal court no later than the 15th school day after the date of the student's last absence.

CSHB 316 would allow a peace officer who was not serving as an attendance officer to enforce compulsory attendance requirements by referring a student to juvenile court or filing a complaint in a county, justice, or municipal court against a student who had violated compulsory attendance requirements and a parent who had failed to require a student

to attend school. The peace officer also could serve a court-ordered legal process, make a home visit, or otherwise contact the parent of a student who had violated compulsory attendance requirements, except that the officer could not enter a residence without the permission of the student's parent or the tenant or owner of the residence, except to lawfully serve a court-ordered legal process on the parent. The officer also could take a student into custody with the permission of the student's parent or in obedience to a court-ordered legal process.

The bill would take effect September 1, 2005, and apply to offenses committed on or after that date.

**SUPPORTERS
SAY:**

CSHB 316 would strengthen truancy laws by reducing the number of allowable unexcused absences and requiring schools, parents, counselors, and students to work together to address a student's absences before the students ended up in court for truancy. Under current law, students can miss school 10 days over a six-month period before their parents or the courts are notified. By then, a student already may be failing school or about to drop out altogether. Parents and schools need to intervene sooner to prevent serious truancy and related problems.

The bill also would allow officers other than school police officers to apprehend students skipping school. On-duty police officers may see truant students in shopping malls, convenience stores, and parks, but unless the city has a daytime curfew, the police officer has no legal authority to stop these students. Giving police officers this authority would help cut down on both truancy and crime, because students who skip school often get involved in criminal activities.

The bill would help courts respond to truancy in a timely manner by requiring schools to notify the court within 15 days of the most recent absence. Sometimes, it can be months before a school notifies the court of excessive absences, by which time the student may have dropped out or moved away, and courts can do little to address the problem.

**OPPONENTS
SAY:**

Current law adequately addresses truancy problems by prohibiting students from missing more than 10 days in six months. Students may miss school for a variety of reasons, including illness, sports events, and religious holidays. If a teacher forgets to authorize an absence for a sports event, a parent does not provide a doctor's note for illness, or a student simply forgets to request approval for an absence, the number of

unexcused absences can add up quickly, and a student with legitimate absences could be sent to court for truancy. Juvenile courts already are overburdened and should not have to handle even more truancy cases that may not be serious.

The state should not give police officers the authority to apprehend students who are not in school. Officers already have this authority in cities that have adopted daytime curfews. This decision should be made at the local level.

NOTES:

The committee substitute increased the number of unexcused absences that would constitute an offense from one day during the entire school year to seven days in a six-month period or three days within a four-week period. The substitute added notice requirements as well as a requirement that parents and school officials develop a plan specific to the student for improving attendance. It also added a requirement that the school notify a county, justice, or municipal court no later than 15 school days after the student's last absence.