

BILL ANALYSIS

Senate Research Center
87R11868 ADM-D

H.B. 3165
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a child who is truant due to an abusive situation in their home may be arrested and face civil penalties. Officials and child-protection advocates have called to protect these students by providing for an affirmative defense to allegations of truant conduct, in cases where abuse is affirmed.

This bill would address this issue by establishing an affirmative defense to an allegation of truant conduct that the student's absence was due to their voluntary absence from their home because of abuse.

H.B. 3165 amends the Family Code to establish an affirmative defense to an allegation of truant conduct, in cases where one or more of the absences were due to the child's voluntary absence from the child's home because of abuse as shown by a preponderance of the evidence. The bill would apply this change beginning with the 2021-2022 school year.

If passed without a vote to make it effective immediately, the bill would take effect September 1, 2021.

H.B. 3165 amends current law relating to an affirmative defense to an allegation of truant conduct.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 65.003, Family Code, by amending Subsection (c) and adding Subsections (d), (e), and (f), as follows:

(c) Provides that it is an affirmative defense to an allegation of truant conduct that one or more of the absences required to be proven:

(1) and (2) creates these subdivisions from existing text and makes nonsubstantive changes; or

(3) were due to the child's voluntary absence from the child's home because of abuse, as defined by Section 261.001 (Definitions).

(d) Creates this subsection from existing text. Provides that the affirmative defense provided by Subsection (c) is not available if, after deducting the absences described by that subsection, there remains a sufficient number of absences to constitute truant conduct.

Deletes existing text providing that 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.

(e) Creates this subsection from existing text. Provides that in asserting an affirmative defense described by Subsection (c), the burden is on the child to show by a preponderance of the evidence that the absence:

(1) and (2) creates these subdivisions from existing text and makes nonsubstantive changes; or

(3) was due to the child's voluntary absence from the child's home because of abuse, as defined by Section 261.001.

(f) Creates this subsection from existing text. Provides that a decision by the court to excuse an absence for purposes of an affirmative defense under Subsection (c), rather than for purposes of this subsection, does not affect the ability of the school district to determine whether to excuse the absence for another purpose.

SECTION 2. Provides that this Act applies beginning with the 2021-2022 school year.

SECTION 3. Effective date: upon passage or September 1, 2021.