



# Municipal Courts Department



October 19, 2015

Public Safety Committee



## Truancy Law Changes Enacted by the 84<sup>th</sup> Legislative Session

**Presented by:**

**Barbara E. Hartle, Director and Presiding Judge**

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# New Law Regarding Truancy



The 84<sup>th</sup> Legislative Session made significant changes to Truancy laws.

HB 2398 decriminalized Truancy for students and places greater emphasis on preventive measures to be taken by the school districts.



# Truancy Law Prior to 9/1/15



## Conduct:

- Failing to attend school 10 or more days or parts of days within a six month period in the same school year; or
- Failing to attend school 3 or more days or parts of days within a four-week period.



# Truancy Law Prior to 9/1/15 (cont.)



**There were two ways to process cases in judicial system:**

## **As a Criminal Case (*Education Code Sec. 25.094*)**

- Offense: Failure to Attend School
- Handled primarily by justice and municipal courts (some county courts)
- Applied to students between the ages of 12 – 18
- Class C misdemeanor
- 12 cases filed in the COH Municipal Courts in 2014

## **As a Civil Case (*Family Code Sec. 51.03(b)(2)*)**

- Truancy
- Filed in juvenile court (district and county-level courts designated to act as juvenile courts)
  - May be transferred to county, justice or municipal courts to handle
- Applied to students between the ages of 10 – 17
- Conduct Indicating Need for Supervision (CINS)



# Truancy Law Prior to 9/1/15 (cont.)



## Parent Contributing to Non-Attendance:

- Education Code Sec. 25.093
- Offense committed by parent of truant child
- Handled by justice and municipal courts
- Class C Criminal Misdemeanor
- No cases filed in the COH Municipal Court in 2014



# House Bill 2398



The leading decriminalization bill was SB 106 filed by Senator John Whitmire. Although it did not pass, the text of SB 106 was added to HB 2398 filed by Representative James White.

HB 2398 was signed into law on June 18, 2015, and became effective on September 1, 2015.

- Repealed:
  - Education Code Sec. 25.094 – Failure to Attend School; and
  - Family Code Sec. 51.03(b)(2) – Truancy (CINS)
- Enacted:
  - New Chapter in the Family Code
  - Chapter 65 – Truancy Court Proceedings
  - Changes Truancy from a Criminal matter to a Civil matter for juveniles



# New Family Code Chapter 65 Purpose and Highlights



- Failure to attend school is decriminalized
- Encourages school attendance by creating civil judicial procedures through which children are held accountable for excessive school absences
- Justice and municipal courts, which currently handle most cases regarding failure to attend, will continue to handle these cases, acting in a special capacity as truancy courts.
- Parent contributing to non-attendance remains a criminal offense
- New \$50 court cost for truancy cases to be retained by the court
- Strengthens guidelines for truancy prevention and intervention measures
- Expunction of past truancy conviction records



# New Family Code Chapter 65 Truant Conduct



- **New definition of truant conduct**

“A child engages in truant conduct if the child is required to attend school under Sec. 25.085, Education Code, and fails to attend on 10 or more days or parts of days within a six-month period in the same school year.” (Family Code Sec. 65.003(a))

- DOES NOT include a child’s failure to attend school on three or more days or parts of days within a four-week period

- Sec. 25.085 amended to specifically require 18-year olds to attend school
- A person who is voluntarily attending school after age 19 cannot commit truant conduct
- Child has a right to a trial by judge or jury





# New Family Code Chapter 65

## Truant Conduct (cont.)



- **Truancy court prosecutors**
  - Attorney who represents the state in criminal matters in the court serves as truancy court prosecutor
- **Interpreters**
  - Foreign language interpreter (may be a qualified telephone interpreter) must be provided for a child, child's parent, or a witness if court determines it is necessary
  - If court notified that child, child's parent or a witness is deaf, court must appoint a qualified interpreter
- **Public access to court hearings**
  - Proceedings presumed open unless court, for good cause, determines public should be excluded



# New Family Code Chapter 65 Truant Conduct (cont.)



- **Recording of hearings**
  - Proceedings in courts that are not courts of record may not be recorded
  - Proceedings in a court of record must be recorded by stenographic notes or by electronic, mechanical, or other appropriate means
- **Juvenile Case Managers**
  - May be employed by courts to provide services to children who have been referred or who are in jeopardy of being referred to the truancy court
- **Discovery**
  - Similar to juvenile court discovery – governed by Chapter 39, Code of Criminal Procedure, other than Articles 39.14(i) and (j).



# School Responsibilities



- Requires a school district to initiate truancy prevention measures if a student fails to attend school without excuse on 3 or more days or parts of days within a 4-week period but does not fail to attend school for 10 or more days or parts of days within a 6-month period in the same school year
- Requires school districts to issue a warning letter to students who accrue three unexcused absences stating that the student's enrollment may be revoked if the student has more than five unexcused absences in a semester.
- A school could impose a behavior improvement plan as an alternative to revoking the enrollment of a student.
- Prescribes set of truancy prevention measures that schools would be required to impose prior to referring a student for truant conduct.



# School Responsibilities (cont.)



- Cannot refer a student to truancy court if the truant conduct is the result of pregnancy, the child's being in foster care, homelessness, or being the principal earner for the student's family.
- School districts required to employ truancy prevention facilitators or designate an existing district employee to implement the truancy prevention measures.



# COH Juvenile Case Managers



The City of Houston Juvenile Case Managers currently partner with both Houston Independent School District and Spring Branch Independent School District to provide truancy prevention measures for at-risk students. They are assigned to the campuses listed below.

## **Chavez High School- District I**

- Ortiz Middle School
- Stevenson Middle School

## **Kashmere High School- District B**

- Key Middle School

## **Lee High School- District J**

## **Westbury High School- District K**

- Fondren Middle School

## **Northbrook High School- District A**

- Landrum Middle School
- Northbrook Middle School

## **North Forest High School- District B**

- Forest Brook Middle School
- Patrick Henry Middle School

## **Spring Woods High School- District A**

- Spring Woods Middle School

## **Sterling High School- District D**

- Thomas Middle School
- Attucks Middle School

## **Yates High School- District D**

- Cullen Middle School

## **Worthing High School- District D**



# Uniform Truancy Policy Committee



- Requires counties with two or more courts that hear truancy cases and have two or more school districts to adopt uniform truancy policies unless the county has already done so; provides composition of committee (Sec. 25.0916)
- Mayor Parker and Judge Emmett will appoint members from the following areas:
  - A juvenile court; a municipal court; the office of a justice of the peace; the superintendent or designee of an independent school district; an open-enrollment charter school; the office of the prosecutor with original truancy jurisdiction in the county; and the general public.
- The committee shall recommend uniform truancy policies and procedures by May 1, 2016.



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**Thank You!**

***Questions?***