

EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE E. STUDENTS AND PARENTS

CHAPTER 25. ADMISSION, TRANSFER, AND ATTENDANCE

Sec. 25.093. PARENT CONTRIBUTING TO NONATTENDANCE. (a) If a warning is issued as required by Section 25.095(a), the parent with criminal negligence fails to require the child to attend school as required by law, and the child has absences for the amount of time specified under Section 65.003(a), Family Code, the parent commits an offense.

(b) The attendance officer or other appropriate school official shall file a complaint against the parent in:

(1) the constitutional county court of the county in which the parent resides or in which the school is located, if the county has a population of 1.75 million or more;

(2) a justice court of any precinct in the county in which the parent resides or in which the school is located; or

(3) a municipal court of the municipality in which the parent resides or in which the school is located.

(c) An offense under Subsection (a) is a misdemeanor, punishable by fine only, in an amount not to exceed:

(1) \$100 for a first offense;

(2) \$200 for a second offense;

- (3) \$300 for a third offense;
- (4) \$400 for a fourth offense; or
- (5) \$500 for a fifth or subsequent offense.

(c-1) Each day the child remains out of school may constitute a separate offense. Two or more offenses under Subsection (a) may be consolidated and prosecuted in a single action. If the court orders deferred disposition under Article 45.051, Code of Criminal Procedure, the court may require the defendant to provide personal services to a charitable or educational institution as a condition of the deferral.

(d) A fine collected under this section shall be deposited as follows:

(1) one-half shall be deposited to the credit of the operating fund of, as applicable:

(A) the school district in which the child attends school;

(B) the open-enrollment charter school the child attends; or

(C) the juvenile justice alternative education program that the child has been ordered to attend; and

(2) one-half shall be deposited to the credit of:

(A) the general fund of the county, if the complaint is filed in the justice court or the constitutional county court; or

(B) the general fund of the municipality, if the complaint is filed in municipal court.

(e) At the trial of any person charged with violating this section, the attendance records of the child may be presented in court by any authorized employee of the school district or open-enrollment charter school, as applicable.

(f) The court in which a conviction, deferred adjudication, or deferred disposition for an offense under Subsection (a) occurs may order the defendant to attend a program for parents of students with unexcused absences that provides instruction designed to assist those parents in identifying problems that contribute to the students' unexcused absences and in developing strategies for resolving those problems if a program is available.

(g) If a parent refuses to obey a court order entered under this section, the court may punish the parent for contempt of court under Section 21.002, Government Code.

(h) It is an affirmative defense to prosecution for an offense under Subsection (a) that one or more of the absences required to be proven under Subsection (a) was excused by a school official or should be excused by the court. The burden is on the defendant to show by a preponderance of the evidence that the absence has been or should be excused. A decision by the court to excuse an absence for purposes of this section does not affect the ability of the school district to determine whether to excuse the

absence for another purpose.

(i) In this section, "parent" includes a person standing in parental relation.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 865, Sec. 2, eff. Sept. 1,

1997; Acts 1999, 76th Leg., ch. 1403, Sec. 1, eff. Sept. 1, 1999;

Acts 2001, 77th Leg., ch. 1504, Sec. 24, eff. Sept. 1, 2001; Acts

2001, 77th Leg., ch. 1514, Sec. 3, eff. Sept. 1, 2001; Acts 2003,

78th Leg., ch. 137, Sec. 4, 5, eff. Sept. 1, 2003; Acts 2003,

78th Leg., ch. 283, Sec. 38, eff. Sept. 1, 2003; Acts 2003, 78th

Leg., ch. 1276, Sec. 6.001, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 148 (H.B. [734](#)), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 935 (H.B. [2398](#)), Sec. 11, eff. September 1, 2015.