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FACT SHEET 2015

HB 1490

## Stop Treating Truancy as an Adult Criminal Offense

*Decriminalizing Truancy and Shifting the Responsibility to Schools Will Alleviate Court Dockets, Reduce the Burden on Families, and Help Youth Access Behavioral Services*

### TEXAS HANDLES TRUANCY AS A MISDEMEANOR IN ADULT CRIMINAL COURT, WHICH IS INEFFECTIVE AND UNFAIRLY DISADVANTAGES STUDENTS AND FAMILIES

In Texas, the vast majority of truancy cases are heard in adult criminal courts as a Class C misdemeanor called “failure to attend school” (FTAS).<sup>1</sup> Lawmakers gave Justice of the Peace and Municipal Courts the authority to hear FTAS cases in 1993 in an effort to alleviate the burden of truancy cases on juvenile court dockets. Like any other Class C misdemeanor, FTAS is an **adult criminal conviction** that carries up to a \$500 fine, gives the student a public criminal record, and can lead to arrest and incarceration if the fine remains outstanding when a student turns 17.<sup>2</sup>

Sadly, shifting truancy cases from juvenile courts to adult criminal courts has not corrected the magnitude of the school attendance problem. In 2014 alone, there were 88,063 FTAS complaints filed against students between Justice of the Peace and Municipal Courts, and the specialized truancy courts in Dallas and Fort Bend Counties.<sup>3</sup> Also problematic, Justice of the Peace and Municipal Courts are designed to process large numbers of fine-only offenses like traffic offenses, not provide social services to needy individuals. The dedicated truancy courts in Dallas, for example, collect about \$2 million per year;<sup>4</sup> and while some exceptional courts have developed successful truancy programs to address students’ needs, most courts simply assign a fine and move on. This is despite the fact that **research indicates that the root causes of truancy often lie in family and community factors that are largely outside a student’s control.**<sup>5</sup>

Nevertheless, the FTAS offense continues to subject students—who are indigent by definition as minors—to expensive fines that place a significant burden on low-income families. The legal and financial obligations imposed by adult criminal courts can cause students to miss further school time to appear at hearings. Further, Class C citations disproportionately impact certain student populations, including African-American students, Hispanic students,<sup>6</sup> and students with intellectual disabilities.<sup>7</sup>

### KEY FINDINGS

- Failure to Attend School is a Class C misdemeanor that is heard in adult criminal courts, carries a fine of up to \$500, and is documented as a criminal (not juvenile) offense.<sup>8</sup> Like any other Class C misdemeanor, **students are not entitled to be represented by an attorney** in these proceedings.
- Though schools are required to adopt truancy prevention measures, there are no minimum standards that these measures must adhere to in statute.<sup>9</sup> This has led to **many school districts employing ineffective or superficial interventions**, instead relying on the court system to enforce compulsory school attendance.<sup>10</sup>
- Research demonstrates that the mere act of entering the formal justice system can negatively impact youth, **increasing their likelihood of future justice system involvement**, adding tension to the family dynamic, and stigmatizing them as “offenders” for conduct that is actually non-criminal.<sup>11</sup>

*Continued on reverse.*

## **KEY FINDINGS (CONTINUED)**

- Punitive sanctions—like fines or incarceration—have been shown to be ineffective at treating truancy and can actually **further alienate youth from school**.<sup>12</sup>
- Students who face persistent complications with the school disciplinary system are more likely to **drop out or become involved with the juvenile justice system**.<sup>13</sup>

## **COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT HB 1490 BY REPRESENTATIVES HUBERTY AND DESHOTEL**

- **HB 1490 repeals “failure to attend school” as a criminal offense, meaning truancy cases can only be heard as a Child in Need of Supervision (CINS) offense in juvenile court.** Under CINS, students and their families will have access to remedial services designed to address their underlying needs, which are simply not available for adult Class C misdemeanors. While there is some concern that juvenile courts could not handle an influx of truancy cases, requiring schools to be more accountable for their students’ unexcused absences through progressive truancy interventions should drastically reduce the number of students referred to court. HB 1490 will remove the trappings of criminality from student behavior and get students and families the services they need.
- **HB 1490 requires schools to employ a progressive truancy intervention system that must meet certain statutory minimums for school attendance violations, and that is designed to keep as many students as possible away from the court system.** At its core, truancy is a school problem. Texas law should reflect this by holding schools primarily responsible for their students’ attendance. HB 1490 accomplishes this by requiring schools to implement a progressive truancy intervention system. The system must have at least three tiers, with the first tier triggered at three absences and requiring a conference with the student and parent that results in an attendance contract. The remaining tiers are left more to the discretion of the school to develop, with the only requirement that at least one of the tiers include an individualized assessment of the student. Thus this system strikes a balance: it is specific enough to provide sufficient guidance to schools that have struggled with truancy interventions in the past, but leaves enough discretion so schools can continue programs that have been effective. This would substantially reduce the burden that “failure to attend school” cases currently place on the court system by handling more of these cases in schools.

## **Citations**

<sup>1</sup> Tex. Educ. Code § 25.094.

<sup>2</sup> Deborah Fowler, *Criminalization of Truancy in Texas: Prosecution of “Failure to Attend School” in Adult Criminal Courts*, Texas Appleseed, 6.

<sup>3</sup> Legislative Budget Board (LBB), *Texas State Government Effectiveness and Efficiency Report: Selected Issues and Recommendations* (January 2015), 10.

<sup>4</sup> John W. Whitehead, *Move Over, Traffic Court, It’s Time for a New Money-Making Scheme—School Truancy Laws Jail Parents and Levy Excessive Fines*, The Rutherford Institute (March 4, 2013).

<sup>5</sup> LBB, *Texas State Government Effectiveness and Efficiency Report*, 3.

<sup>6</sup> Texas Appleseed, *Texas’ School-to-Prison Pipeline: Ticketing, Arrest, & Use of Force in Schools, How the Myth of the “Blackboard Jungle” Reshaped School Disciplinary Policy*, December 2010.

<sup>7</sup> *Ibid.*

<sup>8</sup> Texas Education Code § 25.094 and Texas Penal Code § 12.23.

<sup>9</sup> Tex. Educ. Code § 25.0915.

<sup>10</sup> LBB, *Texas State Government Effectiveness and Efficiency Report*, 1.

<sup>11</sup> Coalition for Juvenile Justice, *National Standards for the Care of Youth Charged with Status Offenses* (2013), 51-52.

<sup>12</sup> LBB, *Texas State Government Effectiveness and Efficiency Report*, 2.

<sup>13</sup> Council of State Government, *Breaking School Rules: A Statewide Study of How School Discipline Relates to Students’ Success of Juvenile Justice Involvement*, July 2011.