



School Discipline & Delinquency Prevention



The Issue

During the 83rd Legislature, great strides were made in diverting disruptive youth from the criminal court. Prior to the passage of Senate Bills 393 and 1114, children who misbehaved in school were liable to be issued a Class C misdemeanor ticket or referred to a Juvenile Justice Alternative Education Program. This package of reforms suggested a graduated sanction model of school discipline, allowing infractions to be met with increasingly severe punishments should they persist.

Currently, Class C citations can still be issued for Failure to Attend School (FTAS), which includes absences and cumulative tardiness. Depending on jurisdiction, this is often processed through justice of the peace (JP) or municipal courts. Conviction can impose additional burdens such as a \$500 fine, a criminal record, and any additional requirements imposed by the court on the student.

Truancy enforcement in the courts is problematic for three primary reasons:

1) it does not address underlying problems motivating the behavior, 2) it fails to effectively deter the behavior, and 3) it imposed unwarranted, costly burdens on the court.

Truancy is also punished doubly. Not only are the children themselves liable for a \$500 fine if found guilty of FTAS under Section 25.094 of the educational code, parents are liable to be charged with contributing to nonattendance—another Class C misdemeanor—under the preceding subsection.

Special truancy courts, such as the one established in Dallas, offer dubious effectiveness measures and questionable incentive structures. Nearly half of those processed through these courts re-offend. Further, these courts are subject to more pressure to collect fines from largely indigent families to cover their costs rather than to achieve successful educational and disciplinary outcomes.

The foundational problem behind truancy is that, by missing school, a child falls behind in the educational material. Effectively addressing truancy matters requires keeping the child in school and avoiding interventions such as out-of-school suspension. To that end, schools should also be empowered to implement restorative justice programs, reserving the courts for juvenile delinquents.

Texas must seek further improvement in school discipline. Simple, effective, and low-cost in-school disciplinary measures have been forgone for more expensive justice system interventions—such as the frequent use of Class C Misdemeanor tickets and referrals to Juvenile Justice Alternative Education Programs (JJAEP). These expend valuable court resources, overflow dockets of municipal court judges, squander precious district funds, and overburden taxpayers. Several alternative programs have arisen that seek to prevent children from falling behind academically while promoting school safety and educational efficiency.

The Facts

- In the 2012 fiscal year, FTAS made up the nearly 34% of all Class C misdemeanor citations issued in the state.
- In that same year, roughly one-third of all FTAS charges were filed in Dallas County's truancy court; a county that contains under 10% of the state's population.

- Under current law, students can be issued a limitless number of three-day out-of-school suspensions with no recourse.

Recommendations

- Remove the criminalization of FTAS from section 25.094 of the Texas Education Code and allow individual schools and districts to handle truancy matters internally. If legislators wish to retain the criminal/financial penalty, the burden should be kept on the parent or guardian under 25.093.
- Mandate that school districts handle all non-criminal disciplinary matters with interventions that do not involve court referrals.
- Change suspension and expulsion decisions from mandatory to discretionary.
- Study the effectiveness of alternative truancy and delinquency prevention programs, such as those in place in Williamson County ISD, Fort Bend County ISD, and Arlington ISD. Incentivize the use of programs that are effective in keeping youth in school and preventing delinquency.
- Prioritize restorative justice-oriented programs such as peer mediation over formalized case handling for minor school-based offenses.
- Repeal state law allowing out-of-school suspension as a punishment for truancy. Allow students and parents to appeal truancy-oriented suspension decisions after six cumulative days.

Resources

Reviving Restorative Justice: A Blueprint for Texas by Derek Cohen, Texas Public Policy Foundation (Dec. 2013).

Ten Truths about Juvenile Justice Reform by Jeanette Moll, Texas Public Policy Foundation (Dec. 2011).

The Right Prescription for Juvenile Drug Offenders by Marc Levin, Texas Public Policy Foundation (Feb. 2009).

The ABC's Before TYC: Enhancing Front-End Alternatives in the Juvenile Justice System by Marc Levin, Texas Public Policy Foundation (Feb. 2008).

