

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** HB 0005      **Caption:** relating to public school accountability, including assessment, and curriculum requirements; providing a criminal penalty

**Effective Date:** 6-10-2013

**Application:** ED 25.092 applies beginning with the 2013-2014 school year;

**Statutes Affected:** ED 25.092

**Subject:** Minimum attendance for class credit or final grade

**Summary:** Amends ED 25.092 to provide that a student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for a class unless the student is in attendance for at least 90% of the days the class is offered;  
A student who is in attendance for at least 75% but less than 90% of the days a class is offered may be given credit or a final grade for the class if the student completes a plan approved by the school's principal;

**Subject:**

**Summary:**

**Subject:**

**Summary:**

**Comments:** Education policy in Texas has focused on ensuring that students are academically prepared to pursue a postsecondary education. Interested parties contend that such efforts to increase the rigor of curriculum and assessments have unintentionally led to limited options for students during high school and an excessive reliance on standardized testing. In addition, many in business and industry are frustrated with the lack of applied core curriculum courses to prepare students for the growing labor demands in this state.

Current law provides for three public high school graduation plans: minimum, recommended, and distinguished. All students are required to begin high school under the recommended program, satisfying four credits each in English language arts, mathematics, science, and social studies. To opt out of this default program, students and their parents must sign a permission form.

C.S.H.B. 5 seeks to transform the current structure by creating a single diploma, the foundation program, and enable students to pursue their interests through diploma endorsements. In addition, it seeks to reduce the emphasis on testing by decreasing the number of end-of-course examinations required for graduation, and to institute school ratings that provide a clearer understanding of overall school performance.

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
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**Bill Number:** HB 0232

**Caption:** relating to allowing certain minors convicted of certain alcohol offenses to perform community service instead of attending an alcohol awareness program

**Effective Date:** 6-14-2013

**Application:**

**Statutes** AB 106.115

**Affected:**

**Subject:** Attendance at alcohol awareness course; license suspension

**Summary:** Amends AB 106.115 to authorize a court, if a defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, to allow the defendant to take an online alcohol awareness program if the Department of State Health Services (DSHS) approves online courses, or to require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment and approved by DSHS instead of attending the alcohol awareness program. Provides that community service ordered under this subsection is in addition to community service ordered under Section 106.071(d) (relating to requiring a court to order certain minors to perform community service as a punishment for an alcohol-related offense);

Authorizes a court, for purposes of Subsection (b-1), if the defendant is enrolled in an institution of higher education located in a county in which access to an alcohol awareness program is readily available, to consider the defendant to be a resident of that county. Provides that if the defendant is not enrolled in such an institution of higher education, or if the court does not consider the defendant to be a resident of the county in which the institution is located, the defendant's residence is the residence listed on the defendant's driver's license or personal identification certificate, or if none, the residence on the defendant's voter registration certificate, or if none, the residence on file with the public school district on which the defendant's enrollment is based; Provides that if the defendant is not enrolled in public school, the defendant's residence is determined as provided by Texas Alcoholic Beverage Commission rule;

Requires DSHS to create a list of community services related to alcohol abuse prevention or treatment in each county in the state to which a judge is authorized to sentence a defendant under Subsection (b-1);

**Subject:**

**Summary:**

**Subject:**

**Summary:**

**Comments:** The Alcoholic Beverage Code states that a minor placed on a deferred disposition or a minor convicted of an alcohol related offense is required to attend an alcohol awareness course approved by the court. Defendants in rural areas, however, may not have access to such a course due to a lack of approved providers in their community. Consequently, these individuals would have to travel long distances in order to meet these requirements.

C.S.H.B. 232 amends current law relating to allowing certain minors convicted of certain alcohol offenses to perform community service instead of attending an alcohol awareness program.

As amended:

AB § 106.115. Attendance at Alcohol Awareness Course; License Suspension

(a) On the placement of a minor on deferred disposition for an offense under Section 49.02, Penal Code, or under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, the court shall require the defendant to attend an alcohol awareness program approved by the Department of State Health Services under this section or a drug and alcohol driving awareness program approved by the Texas Education Agency. On conviction of a minor of an offense under one or more of those sections, the court, in addition to assessing a fine as provided by those sections, shall require a defendant who has not been previously convicted of an offense under one of those sections to attend the alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant has been previously convicted once or more of an offense under one or more of those sections, the court may require the defendant to attend an alcohol awareness program or a drug and alcohol driving awareness program described by this subsection. If the defendant is younger than 18 years of age, the court may require the parent or guardian of the defendant to attend the program with the defendant. The Department of State Health Services:

(1) is responsible for the administration of the certification of approved alcohol awareness programs;

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(2) may charge a nonrefundable application fee for:

(A) initial certification of the approval; or

(B) renewal of the certification;

(3) shall adopt rules regarding alcohol awareness programs approved under this section; and

(4) shall monitor, coordinate, and provide training to a person who provides an alcohol awareness program.

(b) When requested, an alcohol awareness program may be taught in languages other than English.

(b-1) If the defendant resides in a county with a population of 75,000 or less and access to an alcohol awareness program is not readily available in the county, the court may allow the defendant to take an online alcohol awareness program if the Department of State Health Services approves online courses or require the defendant to perform not less than eight hours of community service related to alcohol abuse prevention or treatment and approved by the Department of State Health Services under Subsection (b-3) instead of attending the alcohol awareness program. Community service ordered under this subsection is in addition to community service ordered under Section 106.071(d).

(b-2) For purposes of Subsection (b-1), if the defendant is enrolled in an institution of higher education located in a county in which access to an alcohol awareness program is readily available, the court may consider the defendant to be a resident of that county. If the defendant is not enrolled in such an institution of higher education or if the court does not consider the defendant to be a resident of the county in which the institution is located, the defendant's residence is the residence listed on the defendant's driver's license or personal identification certificate issued by the Department of Public Safety. If the defendant does not have a driver's license or personal identification certificate issued by the Department of Public Safety, the defendant's residence is the residence on the defendant's voter registration certificate. If the defendant is not registered to vote, the defendant's residence is the residence on file with the public school district on which the defendant's enrollment is based. If the defendant is not enrolled in public school, the defendant's residence is determined as provided by commission rule.

(b-3) The Department of State Health Services shall create a list of community services related to alcohol abuse prevention or treatment in each county in the state to which a judge may sentence a defendant under Subsection (b-1).

(c) The court shall require the defendant to present to the court, within 90 days of the date of final conviction, evidence in the form prescribed by the court that the defendant, as ordered by the court, has satisfactorily completed an alcohol awareness program or performed the required hours of community service. For good cause the court may extend this period by not more than 90 days. If the defendant presents the required evidence within the prescribed period, the court may reduce the assessed fine to an amount equal to no less than one-half of the amount of the initial fine.

(d) If the defendant does not present the required evidence within the prescribed period, the court:

(1) shall order the Department of Public Safety to:

(A) suspend the defendant's driver's license or permit for a period not to exceed six months or, if the defendant does not have a license or permit, to deny the issuance of a license or permit to the defendant for that period; or  
(B) if the defendant has been previously convicted of an offense under one or more of the sections listed in Subsection (a), suspend the defendant's driver's license or permit for a period not to exceed one year or, if the defendant does not have a license or permit, to deny the issuance of a license or permit to the defendant for that period; and

(2) may order the defendant or the parent, managing conservator, or guardian of the defendant to do any act or refrain from doing any act if the court determines that doing the act or refraining from doing the act will increase the likelihood that the defendant will present evidence to the court that the defendant has satisfactorily completed an alcohol awareness program or performed the required hours of community service.

(e) The Department of Public Safety shall send notice of the suspension or prohibition order issued under Subsection (d) by first class mail to the defendant. The notice must include the date of the suspension or prohibition order, the reason for the suspension or prohibition, and the period covered by the suspension or prohibition.

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** HB 0455

**Caption:** relating to excused absences from public school for certain students

**Effective Date:** 6-14-2013

**Application:** Applies beginning with 2013-2014 school year

**Statutes** ED 25.087

**Affected:**

**Subject:** Excused absences

**Summary:** Amends ED 25.087 to require a school district to excuse a student from attending school for a temporary absence resulting from an appointment with health care professionals for the student or the student's child if the student commences classes or returns to school on the same day of the appointment;

**Subject:**

**Summary:**

**Subject:**

**Summary:**

**Comments:**

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** HB 0528      **Caption:** relating to the restriction of access to the records and files of a child charged with or convicted of certain fine-only misdemeanor offenses

**Effective Date:** 1-1-2014

**Application:** Applies to an offense committed before, on, or after 1-1-2014

**Statutes Affected:** CP 45.0217

**Subject:** Confidential records related to the conviction of a child

**Summary:** Amends CP 45.0217 to make all records and files, including those held by law enforcement, and information stored by electronic means or otherwise from which a record or file could be generated, relating to a child who is charged with, is convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition, confidential;  
Prohibits disclosure of the records to the public;  
Does not apply to traffic offenses;  
Allows information to be open to inspection only by:  
(1) judges or court staff;  
(2) a criminal justice agency for a criminal justice purpose;  
(3) the Department of Public Safety;  
(4) an attorney for a party to the proceeding;  
(5) the child defendant; or  
(6) the defendant's parent, guardian, or managing conservator.

**Subject:**

**Summary:**

**Subject:**

**Summary:**

**Comments:** Under current law, the records of a child convicted of a fine-only misdemeanor, other than a traffic offense, are confidential. Interested parties contend that the intent of this provision is to prevent the release of information of a child convicted in this type of case, but that the records of a child who has been charged with or who is appealing the case are not protected. H.B. 528 seeks to close this unintended loophole in current law.

"Criminal justice agency" means:  
(A) a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice; or  
(B) a nongovernmental railroad or campus police department that has obtained an originating agency identifier from the Federal Bureau of Investigation.

(4) "Criminal justice purpose" means:  
(A) an activity that is included in the administration of criminal justice; or  
(B) screening of applicants for employment with a criminal justice agency.

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Janet Marton, Senior Assistant County Attorney  
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**Bill Number:** HB 1009

**Effective Date:** 6-14-2013

**Caption:** Relating to the creation of a new category of law enforcement officer who shall be designated a school marshal, the training and appointment of certain employees of a school district or open-enrollment charter school as school marshals, and the rights, restrictions, limitations, and responsibilities of school marshals; authorizing the imposition of a fee

**Application:** Commission on Law Enforcement Officer Standards and Education must establish a school marshal training program not later than 1-1-2014

**Statutes** CP 2.127

**Affected:** ED 37.0811

OC 1701.260

**Subject:** School marshals

**Summary:** Adds CP 2.127 to allow a school marshal to make arrests and exercise authority of a peace officer, subject to regulations adopted by ISD board of trustees or governing body of open enrollment charter school, only as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises; a school marshal may not issue a traffic citation; Person serving as school marshal must be licensed by Commission on Law Enforcement Officer Standards and Education and appointed by ISD trustees or governing body of open enrollment charter school;

**Subject:** School marshals

**Summary:** Adds ED 37.0811 to allow ISD board of trustees or governing body of open enrollment charter school to appoint not more than 1 school marshal per 400 students in average daily attendance per campus; School marshal may carry a handgun on school premises of a specific school per regulations of ISD board of trustees or governing body of charter school; school marshal may not carry a concealed handgun if the primary duty involves regular, direct contact with students; handgun may be left in a safe within immediate reach when conducting duties; handgun can be loaded only with frangible ammunition; School marshal may access handgun only under circumstances that would justify the use of deadly force; Identity of school marshal is confidential;

**Subject:** Training for holders of license to carry concealed handgun; certification of eligibility for appointment as school marshal

**Summary:** Adds OC 1701.260 to require the Commission on Law Enforcement Officer Standards and Education to establish a training program for any employee of a school district or open enrollment charter school who holds a license to carry a concealed handgun; Program includes 80 hours of instruction designed to:

- (1) emphasize strategies for preventing school shootings and for securing the safety of potential victims;
- (2) educate a trainee about legal issues relating to the duties of peace officers and the use of force or deadly force in the protection of others;
- (3) introduce the trainee to effective law enforcement strategies and techniques;
- (4) improve the trainee's proficiency with a handgun; and
- (5) enable the trainee to respond to an emergency situation requiring deadly force, such as a situation involving an active shooter;

Commission must devise and administer psychological exam to determine whether trainee is psychologically fit; Commission must license as a school marshal a trainee who completes training and is psychologically fit; License expires on first birthday after 2nd anniversary of license date; renewal requires renewal course; Commission shall inform the DPS, employer, city police chief, and sheriff of each person licensed as a school marshal;

**Comments:** In light of the recent Sandy Hook Elementary School shooting, reported to be the most deadly shooting at a public elementary school and the second-deadliest school shooting in U.S. history, school safety and the protection of America's children have become critical issues of concern for parents, administrators, lawmakers, and members of the public. Interested parties note that there are limited school safety options for school districts in Texas. Some larger school districts employ a dedicated police force tasked with protecting all schools in the district, and others use school resource officers. It has been observed that a few schools have adopted policies that allow teachers who are concealed handgun license holders to carry a firearm in school buildings and on school grounds.

In an effort to provide an additional option for protecting students, faculty, and other staff in Texas schools, H.B. 1009 seeks to authorize a school district or open-enrollment charter school to appoint school marshals to prevent or abate the commission of an offense in the event of a life-threatening situation that occurs on school premises. School marshals would be required to successfully complete a rigorous training course administered by the

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Commission on Law Enforcement Officer Standards and Education (TCLEOSE) and required to be certified by TCLEOSE to be eligible for appointment.

"School marshal" means a person employed and appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school under Article 2.127, Code of Criminal Procedure, and in accordance with and having the rights provided by Section 37.0811, Education Code.

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** HB 1020

**Caption:** relating to the certification of alcohol awareness programs required for minors convicted of or receiving deferred disposition for certain alcohol offenses

**Effective Date:** 6-14-2013

**Application:**

**Statutes** AB 106.115

**Affected:**

**Subject:** Attendance at alcohol awareness course; license suspension

**Summary:** Amends AB 106.115 to require the court to require the defendant placed on deferred for public intoxication or an alcohol related offense to attend an alcohol awareness program approved by the Department of State Health Services or a drug and alcohol driving awareness program approved by the Texas Education Agency; Requires the court to require a convicted defendant who has not been previously convicted of these offenses to attend an alcohol awareness program or a drug and alcohol driving awareness program; if the defendant has been previously convicted, the court may require the defendant's attendance at an alcohol awareness program or a drug and alcohol driving awareness program; Makes the Department of State Health Services responsible for administration of the certification of approved alcohol awareness programs;

**Subject:**

**Summary:**

**Subject:**

**Summary:**

**Comments:**



## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** HB 1479

**Caption:** relating to establishing a committee in certain counties to recommend a uniform truancy policy

**Effective Date:** 6-14-2013

**Application:** Expires January 1, 2016; Applies to Bexar County

**Statutes** ED 25.0916

**Affected:**

**Subject:** Uniform truancy policies in certain counties

**Summary:** Adds ED 25.0916 to require counties (1) with a population greater than 1.5 million; and (2) that includes at least: (A) 15 school districts with the majority of district territory in the county; and (B) one school district with a student enrollment of 50,000 or more and an annual dropout rate spanning grades 9-12 of at least five percent, to establish a committee to recommend a uniform truancy policy for each school district located in the county;

Not later than 9-1-2013, the county judge and the mayor of the municipality in the county with the greatest population shall each appoint one member to serve on the committee as a representative of each of the following:

- (1) a juvenile district court;
- (2) a municipal court;
- (3) the office of a justice of the peace;
- (4) the superintendent or designee of an independent school district;
- (5) an open-enrollment charter school;
- (6) the office of the district attorney; and
- (7) the general public;

Not later than September 1, 2014, the committee shall recommend:

- (1) a uniform process for filing truancy cases with the judicial system;
- (2) uniform administrative procedures;
- (3) uniform deadlines for processing truancy cases;
- (4) effective prevention, intervention, and diversion methods to reduce truancy and referrals to a county, justice, or municipal court;
- (5) a system for tracking truancy information and sharing truancy information among school districts and open-enrollment charter schools in the county; and
- (6) any changes to statutes or state agency rules the committee determines are necessary to address truancy;

Compliance with the committee recommendations is voluntary;

The committee's presiding officer shall issue a report not later than December 1, 2015, on the implementation of the recommendations and compliance with state truancy laws by a school district located in the county;

**Subject:**

**Summary:**

**Subject:**

**Summary:**

**Comments:**

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
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**Bill Number:** HB 2058                      **Caption:** relating to the administration of a high school equivalency examination

**Effective Date:** 6-14-2013

**Application:** Applies beginning with the 2013-2014 school year

**Statutes** ED 7.111

**Affected:**

**Subject:** High school equivalency examination

**Summary:** Amends ED 7.111 to allow an 18 year old to take the examination online;

**Subject:**

**Summary:**

**Subject:**

**Summary:**

**Comments:** Under current law, high school equivalency testing allows an adult lacking a high school diploma to earn a certificate of high school equivalency. Recent legislation prohibits a person under 18 years of age from taking the high school equivalency examination online. Interested parties note that county juvenile probation departments administer high school equivalency examinations to students at risk of dropping out, many of whom are 16 or 17 years of age, but who are now prohibited from taking the examination in a manner in which it is commonly administered.

H.B. 2058 seeks to address this and other related issues by clarifying the current exceptions for the high school equivalency examination and allowing certain individuals under 18 years of age in the custody of a state agency under court order to take the examination online.

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
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**Bill Number:** HB 2619

**Caption:** relating to the educational needs of children in the conservatorship of the Department of Family and Protective Services

**Effective Date:** 9-1-2013

**Application:**

**Statutes** ED 25.001  
**Affected:** ED 25.007  
ED 25.087

**Subject:** Admission and transition assistance for students in substitute care

**Summary:** Amends ED 25.001 to allow a student enrolled in primary or secondary public school who is placed in the conservatorship of the Department of Family and Protective Services at a residence outside the school district is entitled to continue to attend the school at which the student was enrolled until the student completes the highest grade level offered by the school;

Amends ED 25.007 to require the Department of Family and Protective Services to assist in the transition of substitute care students from one school to another by, among other things,  
(9) requiring school districts to provide notice to the child's educational decision-maker and caseworker regarding events that may significantly impact the education of a child, including:  
(A) requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or special education under Section 29.003;  
(B) admission, review, and dismissal committee meetings;  
(C) manifestation determination reviews required by Section 37.004(b);  
(D) any disciplinary actions under Chapter 37 for which parental notice is required;  
(E) citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;  
(F) reports of restraint and seclusion required by Section 37.0021; and  
(G) use of corporal punishment as provided by Section 37.0011;

**Subject:** Excused absences

**Summary:** Amends ED 25.087 to require the ISD to excuse a child in the conservatorship of the Department of Family and Protective Services from attending school if the child is attending a mental health or therapy appointment or court ordered family visitation;

Requires an excused absence for a temporary absence resulting from an appointment with a health care professional if the student commences classes or returns to school on the same day of the appointment;

**Subject:**

**Summary:**

**Comments:**

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
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**Bill Number:** HB 2862

**Caption:** relating to procedures related to juvenile cases

**Effective Date:** 9-1-2013

**Application:** To the extent of any conflict, HB 2862 prevails over another Act of the 83rd Reg Session relating to nonsubstantive additions to and corrections

**Statutes** CP 45.0216

**Affected:** FA 51.03

**Subject:** Expunction of certain conviction records

**Summary:** Amends CP 45.0216 to correct reference to electronic transmission of certain visual material depicting minor; The court shall order conviction and all records expunged if the court finds that (1) the person was not convicted of any other fine only misdemeanor offense while the person was a child; or (2) the person was not found to have engaged in CINS described as electronic transmission of certain visual material depicting minor;

**Subject:** Delinquent conduct; conduct indicating a need for supervision

**Summary:** Amends FA 51.03 to correct the references to conduct described by or conduct that violates "electronic transmission of certain visual material depicting minors;

**Subject:**

**Summary:**

**Comments:**

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
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**Bill Number:** SB 0260

**Caption:** relating to the absence of a student from school to visit with a parent, stepparent, or guardian who will be or has been deployed on military duty

**Effective Date:** 6-14-2013

**Application:**

**Statutes** ED 25.087

**Affected:**

**Subject:** Excused absences

**Summary:** Amends ED 25.087 to require a school district to excuse a student whose parent, stepparent, or legal guardian is an active duty member of the military and has been called to duty for, is on leave from, or is immediately returned from continuous deployment of at least four months outside the residence, to visit; the excused absence is for no more than 5 days in a school year;  
The excused absence must be taken not earlier than the 60th day before the date of deployment, or not later than the 30th day after the date of return from deployment;

**Subject:**

**Summary:**

**Subject:**

**Summary:**

**Comments:**

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Janet Marton, Senior Assistant County Attorney  
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**Bill Number:** SB 0393 **Page 1 of 5** **Caption:** relating to the criminal procedures related to children who commit certain Class C misdemeanors

**Effective Date:** 9-1-2013

**Application:** CP 45.041 and CP 45.0491 apply to a sentencing proceeding that commences before, on, or after 9-1-2013  
CP 45.0217 applies to the disclosure of a record on or after 9-1-2013 regardless of whether the offense was committed before, on, or after 9-1-2013

**Statutes Affected:** CP 45.0217  
CP 45.0491  
CP 45.056  
ED 25.0915  
ED 37.081  
ED 37.141 et seq  
FA 51.08  
FA 52.03  
FA 52.031  
PE 8.07  
PE 8.08

**Subject:** Confidential records related to the conviction of or deferral of disposition for a child

**Summary:** Amends CP 45.0217, applicable to a misdemeanor offense punishable by fine only, other than traffic, to require that all records, including those held by law enforcement, and information stored by electronic means or otherwise, relating to a child who is convicted of and has satisfied the judgment for or who has received a dismissal after deferral of disposition are confidential and may not be disclosed to the public;

**Subject:** Judgment

**Summary:** Amends CP 45.041 to allow the judge, at the time of conviction of a child, to allow the discharge of fine and costs by:  
(1) performing community service or tutoring, or  
(2) paying the fine and costs when sentence is pronounced, at some later date, or in intervals;  
Requires the choice to be made in writing, signed by the defendant, and the defendant's parent if present; a copy must be provided to the defendant, and the election maintained as a record of the court;  
For purposes of electing community service or tutoring to satisfy the judgment, it does not matter whether the offense occurred in a building or on school grounds or not;

**Subject:** Waiver of payment of fines and costs for indigent defendants and children

**Summary:** Amends CP 45.0491 to allow a justice court to waive payment of a fine or costs owed by a defendant who defaulted in payment if the court determines that:  
(1) the defendant is indigent or was a child at the time the offense was committed; and  
(2) discharging the fine and costs under Article 45.049 (community service) or as otherwise authorized by this chapter (tutoring) would impose an undue hardship on the defendant;

**Comments:** There is concern that too many juveniles are entering the criminal justice system due to the fact that there are no other alternatives. It is often the case that minors who commit minor fine-only misdemeanors face more stringent fines and court costs than minors who commit more serious offenses. Interested parties contend that additional diversionary measures are needed in order to provide early interventions for minors who commit certain minor offenses to allow more resources to be focused on those minors with the potential to commit more serious acts of violence. Recently, the Texas Judicial Council, the policy-making body of the judiciary in Texas, made several recommendations for statutory updates to provide such diversionary programs prior to the referral to municipal and justice courts. C.S.S.B. 393 seeks to codify these recommendations.

As amended:

PE § 8.07. Age Affecting Criminal Responsibility

(a) A person may not be prosecuted for or convicted of any offense that the person committed when younger than 15 years of age except:

- (1) perjury and aggravated perjury when it appears by proof that the person had sufficient discretion to understand the nature and obligation of an oath;
- (2) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for conduct for which the person convicted may be sentenced to imprisonment or confinement in jail;
- (3) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state;
- (4) a misdemeanor punishable by fine only;
- (5) a violation of a penal ordinance of a political subdivision;

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(6) a violation of a penal statute that is, or is a lesser included offense of, a capital felony, an aggravated controlled substance felony, or a felony of the first degree for which the person is transferred to the court under Section 54.02, Family Code, for prosecution if the person committed the offense when 14 years of age or older; or

(7) a capital felony or an offense under Section 19.02 for which the person is transferred to the court under Section 54.02(j)(2)(A), Family Code.

(b) Unless the juvenile court waives jurisdiction under Section 54.02, Family Code, and certifies the individual for criminal prosecution or the juvenile court has previously waived jurisdiction under that section and certified the individual for criminal prosecution, a person may not be prosecuted for or convicted of any offense committed before reaching 17 years of age except an offense described by Subsections (a)(1)-(5).

(c) No person may, in any case, be punished by death for an offense committed while the person was younger than 18 years.

(d) Notwithstanding Subsection (a), a person may not be prosecuted for or convicted of an offense described by Subsection (a)(4) or (5) that the person committed when younger than 10 years of age.

(e) A person who is at least 10 years of age but younger than 15 years of age is presumed incapable of committing an offense described by Subsection (a)(4) or (5), other than an offense under a juvenile curfew ordinance or order. This presumption may be refuted if the prosecution proves to the court by a preponderance of the evidence that the actor had sufficient capacity to understand that the conduct engaged in was wrong at the time the conduct was engaged in. The prosecution is not required to prove that the actor at the time of engaging in the conduct knew that the act was a criminal offense or knew the legal consequences of the offense.

PE § 8.08. CHILD WITH MENTAL ILLNESS, DISABILITY, OR LACK OF CAPACITY. (a) On motion by the state, the defendant, or a person standing in parental relation to the defendant, or on the court's own motion, a court with jurisdiction of an offense described by Section 8.07(a)(4) or (5) shall determine whether probable cause exists to believe that a child, including a child with a mental illness or developmental disability:

(1) lacks the capacity to understand the proceedings in criminal court or to assist in the child's own defense and is unfit to proceed; or

(2) lacks substantial capacity either to appreciate the wrongfulness of the child's own conduct or to conform the child's conduct to the requirement of the law.

(b) If the court determines that probable cause exists for a finding under Subsection (a), after providing notice to the state, the court may dismiss the complaint.

(c) A dismissal of a complaint under Subsection (b) may be appealed as provided by Article 44.01, Code of Criminal Procedure.

(d) In this section, "child" has the meaning assigned by Article 45.058(h), Code of Criminal Procedure.

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 0393 **Page 2 of 5** **Caption:** relating to the criminal procedures related to children who commit certain Class C misdemeanors

**Effective Date:**

**Application:**

**Statutes**

**Affected:**

**Subject:** Juvenile case managers

**Summary:** Amends CP 45.056, to allow a county court, justice court, municipal court, school district, juvenile probation department, or other governmental entity to:

- (1) employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; or
- (2) agree to jointly employ a case manager; on approval of commissioners court, city council, IDS trustees, juvenile board, or other authority;

On approval of commissioners court or a municipality, allows a justice or municipal court to employ one or more juvenile case managers who:

- (1) shall assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases; and
- (2) may provide:
  - (A) prevention services to a child considered at-risk of entering the juvenile justice system; and
  - (B) intervention services to juveniles engaged in misconduct prior to cases being filed, excluding traffic offenses;

**Subject:** Truancy prevention measures; referral and filing requirement

**Summary:** Amends ED 25.0915 to require a court to dismiss a complaint that (1) is not accompanied by a statement from the student's school certifying that: (A) the school applied the truancy prevention measures to the student; and (B) the truancy prevention measures failed to meaningfully address the student's school attendance; and (2) does not specify whether the student is eligible for or receives special education services;

**Subject:** School district peace officers and security personnel

**Summary:** Amends ED 37.081 to allow a school district peace officer, within the officer's jurisdiction, to dispose of cases (1) without referral to juvenile court under guidelines adopted by the juvenile board under FA 52.03, or by referral to a first offender program established by the juvenile board under FA 52.031;

**Comments:**



## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 0393 **Page 3 of 5** **Caption:** relating to the criminal procedures related to children who commit certain Class C misdemeanors

**Effective Date:**

**Application:**

**Statutes**

**Affected:**

**Subject:** Disruption of class and disruption of transportation

**Summary:** Amends ED 37.124 (disruption of class) and ED 37.126 (disruption of transportation) to provide that the offense does not apply to a person younger than 12 years of age at the time the person engaged in the prohibited conduct;

**Subject:** Criminal procedure for school offenses

**Summary:** Adds ED Subchapter E-1, ED 37.141 et seq to define criminal procedures for school offenses, which control over any other law applied to a school offense committed by a child;

"School offense" means an offense committed by a child enrolled in a public school that is a Class C misdemeanor committed on property under the control and jurisdiction of a school district, other than a traffic offense;

Adds ED 37.143 to prohibit the issuance of a citation by a peace officer to a child who is alleged to have committed a school offense; does not prohibit the child from being taken into custody;

Adds ED 37.145 to allow the school to file a complaint against a child if a child fails to comply with or complete graduated sanctions, or if the school has not elected to adopt graduated sanctions;

Adds ED 37.146 to require that a complaint alleging a school offense must:

- (1) be sworn to by a person who has personal knowledge of the underlying facts giving rise to probable cause to believe that an offense has been committed; and
  - (2) be accompanied by a statement from a school employee stating:
    - (A) whether the child is eligible for or receives special services; and
    - (B) the graduated sanctions, that were imposed on the child before the complaint was filed;
- Allows the issuance of a summons after the complaint is filed;

Adds ED 37.147 to allow a prosecutor to adopt rules pertaining to the filing of a complaint that the state considers necessary to:

- (1) determine whether there is probable cause to believe that the child committed the alleged offense;
- (2) review the circumstances and allegations in the complaint for legal sufficiency; and
- (3) see that justice is done;

**Subject:** Graduated sanctions for certain school offenses

**Summary:** Adds ED 37.144 to allow a school district that commissions peace officers to develop graduated sanctions that may be required to be imposed on a child before a complaint is filed for the following school offenses:  
Disruption of class  
Disruption of transportation  
Disorderly conduct - abusive or vulgar language, offensive gesture, chemically created noxious odor, offensive abuse or threats, or unreasonable noise;

Graduated sanctions may require:

- (1) a warning letter to be issued to the child and the child's parent or guardian that specifically states the child's alleged school offense and explains the consequences if the child engages in additional misconduct;
- (2) a behavior contract with the child that must be signed by the child, the child's parent or guardian, and an employee of the school and that includes a specific description of the behavior that is required or prohibited for the child and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court;
- (3) the performance of school-based community service by the child; and
- (4) the referral of the child, and parent, to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems;

**Comments:**

**SUMMARIES -- 83rd LEGISLATURE -- 2013**

**Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney**

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 0393 **Page 4 of 5** **Caption:** relating to the criminal procedures related to children who commit certain Class C misdemeanors

**Effective Date:**

**Application:**

**Statutes**

**Affected:**

**Subject:** Transfer from criminal court

**Summary:** Amends FA 51.08 to require the justice court to waive original jurisdiction and refer the child to juvenile court if the child is charged with a complaint alleging a fine only misdemeanor, other than traffic, and the justice court or another court has previously dismissed a complaint against the child under PE 8.08 (child with mental illness, disability, of lack of capacity);

**Subject:** Disposition without referral to court

**Summary:** Amends FA 52.03 to allow a law enforcement officer to dispose of the case of a child taken into custody or accused of a Class C misdemeanor, other than traffic, without referral to juvenile court or filing the case in a justice court, if:  
(1) guidelines for disposition have been adopted by the juvenile board;  
(2) the disposition is authorized by the guidelines; and  
(3) the officer makes a written report of the disposition to the agency, identifying the child and specifying the grounds for believing that the taking into custody or accusation of criminal conduct was authorized;  
The guidelines may allow the officer to refer the child to an agency other than the juvenile court, confer with the child and parent, or refer the child and parent for early youth intervention services);

**Subject:** First offender program

**Summary:** Amends FA 52.031 to allow the juvenile board to establish a first offender program for referral and disposition of children taken into custody or accused prior to filing of a charge for CINS, a Class C misdemeanor other than traffic, or delinquent conduct other than a felony, or state jail felony or misdemeanor involving violence to a person or use of a firearm, illegal knife or club, or prohibited weapon;  
Law enforcement officer taking a child into custody or accusing a child of a Class C misdemeanor, other than traffic or felony, or state jail felony or misdemeanor involving violence to a person or use of a firearm, illegal knife or club, or prohibited weapon, may not refer the child to the juvenile court or the justice court, but may refer the child for disposition under the first offender program only if:  
(1) the child has not previously been adjudicated as having engaged in delinquent conduct;  
(2) the referral complies with the guidelines;  
(3) the officer reports the referral in writing to the agency, identifying the child and specifying the grounds for taking the child into custody or accusing the child of the allowable offense;  
Notice of the referral must be received by the parent, stating:  
(1) the grounds for taking the child into custody or accusing the child of the offense;  
(2) identifying the law enforcement officer or agency to which the child was referred;  
(3) describing the nature of the program;  
(4) warning that the child's failure to complete the program will result in the child being referred to the juvenile court or other court;

Successful completion of the first offender program results in the case being closed; child may not be referred to juvenile or other court unless child is taken into custody for conduct other than the conduct for which the child was referred to the first offender program within 90 days after the date of completion of the first offender program;

The case of a child referred to the first offender program must be referred to the juvenile court or other court if the child fails to complete the program, or the child or parent terminates the child's participation before completion;

**Comments:**

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 0393 **Page 5 of 5** **Caption:** relating to the criminal procedures related to children who commit certain Class C misdemeanors

**Effective Date:**

**Application:**

**Statutes**

**Affected:**

**Subject:** Age affecting criminal responsibility

**Summary:** Amends PE 8.07 to clarify that a person may not be prosecuted for or convicted of a fine only misdemeanor or a city or county penal ordinance committed when younger than 10 years of age;

Creates the presumption that a person who is at least 10 years of age but younger than 15 years of age is incapable of committing a fine only misdemeanor or a city or county penal ordinance, other than a juvenile curfew ordinance; allows the presumption to be refuted if the prosecutor proves to the court by a preponderance of the evidence that the child had sufficient capacity to understand that the conduct was wrong at the time in which it was engaged; the prosecutor does not have to prove that the child knew that the act was a crime or knew the legal consequences of the offense;

**Subject:** Child with mental illness, disability, or lack of capacity

**Summary:** Adds PE 8.08 to require a court, on its own, or on motion by the prosecutor, the defendant, or a parent, to determine whether probable cause exists to believe that a child, including a child with a developmental disability or mental illness:

(1) lacks the capacity to understand the proceedings in criminal court or to assist in the child's own defense and is unfit to proceed; or

(2) lacks substantial capacity either to appreciate the wrongfulness of the child's own conduct or to conform the child's conduct to the requirement of the law;

Court may dismiss the complaint if the court determines that probable cause exists to believe that a child meets the requirements;

Allows prosecutor to appeal the dismissal;

**Subject:**

**Summary:**

**Comments:**

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 0394      **Caption:** relating to restricting access to records of children convicted of or receiving deferred disposition for certain fine-only misdemeanors

**Effective Date:** 9-1-2013

**Application:** Applies to disclosure of a record or file on or after 9-1-2013 regardless of whether the offense was committed before, on, or after 9-1-2013

**Statutes Affected:** CP 45.0217  
FA 58.00711

**Subject:** Confidential records related to the conviction of or deferral of disposition for a child

**Summary:** Amends CP 45.0217 to make its provisions applicable to a fine only misdemeanor offense, other than traffic; Provides that all records and files, including those held by law enforcement, relating to a child who is convicted of and has satisfied the judgment for, or who has received a dismissal after deferral of disposition for a fine only offense other than traffic, are confidential and may not be disclosed to the public; Records may be inspected only by:  
(1) judges or court staff;  
(2) a criminal justice agency for a criminal justice purpose;  
(3) the Department of Public Safety;  
(4) an attorney for a party to the proceeding;  
(5) the child defendant; or  
(6) the defendant's parent, guardian, or managing conservator;

**Subject:** Records relating to children convicted of or receiving deferred disposition for fine only misdemeanors

**Summary:** Amends FA 58.00711 to make its provisions applicable to a fine only misdemeanor offense, other than traffic; Provides that all records and files, including those held by law enforcement, relating to a child who is convicted of and has satisfied the judgment for, or who has received a dismissal after deferral of disposition for a fine only offense other than traffic, are confidential and may not be disclosed to the public;

**Subject:**

**Summary:**

**Comments:** H.B. 961, 82nd Legislature, Regular Session, 2011, established that the records of minors convicted of certain fine-only Class C misdemeanors are confidential. Although this bill provided needed protections for children, additional clarification is needed regarding the confidentiality of the records of those minors who are not adjudicated.

S.B. 394 seeks to put in place statutory suggestions of the Texas Judicial Council, which is the policy-making body of the judiciary in this state. This bill expands the confidentiality of records for all minors, including those who received deferred prosecution. It also expands existing confidentiality provisions to include municipal and justice courts.

As proposed, S.B. 394 amends current law relating to restricting access to records of children convicted of or receiving deferred disposition for certain fine-only misdemeanors.

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 0395      **Caption:** relating to fines and court costs imposed on a child in a criminal case

**Effective Date:** 9-1-2013

**Application:** CP 45.041 applies to a sentencing proceeding that commences on or after 9-1-2013;  
CP 45.0491 applies to a sentencing proceeding that commences before, on or after 9-1-2013;

**Statutes Affected:** CP 45.041  
CP 45.0491

**Subject:** Judgment

**Summary:** Amends CP 45.041 to provide that the judge may allow a defendant who is a child to elect at the time of conviction, to discharge the fine and costs by:  
(1) performing community service or receiving tutoring under Article 45.0492, or  
(2) paying the fine and costs immediately, at some later date, or in intervals;  
Requires the election to be made in writing, signed by the defendant, and if present, the defendant's parent; court must keep the writing and provide a copy to the defendant;  
Provides that any defendant who is a child may perform community service or tutoring to discharge a fine or costs, whether or not the offense was committed in a school building or on the grounds of a primary or secondary school at which the defendant was enrolled;

**Subject:** Waiver of payment of fines and costs for indigent defendants

**Summary:** Amends CP 45.0491 to allow the justice court to waive the fine and costs of a defendant who was indigent, or who was a child at the time the offense was committed if discharging the fine would impose an undue hardship on the defendant;

**Subject:**

**Summary:**

**Comments:** Prior to the 83rd Legislature, the Texas Judicial Council, which is the policy making body for the Texas judiciary, convened a workgroup of stakeholders to review juvenile justice issues. This review resulted in several legislative proposals, including the statutory proposals contained in S.B. 395.

Juvenile offenders in Texas can potentially be impacted by two different court structures. These include juvenile courts, which have jurisdiction over certain Penal Code violations, and municipal and justice courts, which have jurisdiction over fine-only misdemeanors. An imbalance is created due to the fact that fines are not typically charged within the juvenile court system.

S.B. 395 seeks to balance the imposition of fines and court costs for juveniles while still balancing youth accountability. The bill gives judges in fine-only offenses the discretion to waive payment of fines and court costs for children in the same manner as currently done for indigent defendants and will allow juvenile defendants to choose to elect to pay fines and court costs or dispense of them through community service or receiving tutoring.

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 0553

**Caption:** relating to certain high school students serving as early voting clerks in an election

**Effective Date:** 6-14-2013

**Application:**

**Statutes** ED 25.087

**Affected:** EL 83.012

**Subject:** Excused absence

**Summary:** Amends ED 25.087 to allow a school district to adopt a policy excusing a student from attending school for service as a student early voting clerk in an election for a maximum of 2 days in a school year;

**Subject:** EL 83.012

**Summary:** Adds EL 83.012 to allow the early voting clerk to appoint no more than 4 student early voting clerks to serve at an early voting polling place;

**Subject:**

**Summary:**

**Comments:** Students who get involved in the voting process at a young age are more likely to continue to vote throughout their life.

SB 1134, 81st Legislature, Regular Session, 2009, permitted high school students to participate in voting clerkships. SB 1134 created an opportunity for students to learn about the democratic process in a hands-on manner. These students must get permission from their schools to participate in the clerkships. Unfortunately, many students were unable to participate because they could not do so on the election date.

SB 553 allows students to participate as early voting clerks, thereby expanding the opportunity to participate in the election process. SB 553 allows each polling location to have four students serve as clerks.

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 1114 **Page 1 of 3** **Caption:** relating to the prosecution of certain misdemeanor offenses committed by children and to school district law enforcement

**Effective Date:** 9-1-2013

**Application:** Applies only to an offense committed on or after 9-1-2013;  
ED 37.085 applies to an offense committed before, on, or after 9-1-2013

**Statutes Affected:** CP 45.058  
ED 25.0915  
ED 37.001  
ED 37.081  
ED 37.085  
ED 37.124  
ED 37.126  
FA 52.031  
PE 42.01

**Subject:** Children taken into custody

**Summary:** Amends CP 45.058 to require a law enforcement officer who issues a citation or files a complaint for conduct by a child 12 years of age or older that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district to submit to the court:  
the offense report,  
a statement by a witness to the alleged conduct, and  
a statement by a victim of the alleged conduct, if any;  
Prohibits the prosecutor from proceeding in a trial of an offense unless the law enforcement officer complied with the submission requirement;  
Prohibits a law enforcement officer from issuing a citation or filing a complaint for conduct by a child younger than 12 years of age that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district;

**Subject:** Truancy prevention measures; referral and filing requirement

**Summary:** Amends ED 25.0915 to require a court to dismiss a complaint or referral made by a school district that is not accompanied by a statement from the student's school certifying that:  
(A) the school applied the truancy prevention measures adopted under Subsection (a) to the student; and  
(B) the truancy prevention measures failed to meaningfully address the student's school attendance; and  
(2) specify whether the student is eligible for or receives special education services;

**Subject:** Student code of conduct

**Summary:** Amends ED 37.001 to require the board of trustees of an independent school district to include in the student code of conduct the circumstances under which a student may be removed from a classroom, campus, disciplinary alternative education program, or vehicle owned or operated by the district; and provide methods for managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district, appropriate for students at each grade level;

**Comments:** Texas students may be issued a Class C misdemeanor citation for misbehavior, which may result in a fine of up to \$500, potential jail time if the citation goes unaddressed and progresses to the warrant stage, and a criminal record for the student. S.B. 1114 seeks to decrease the number of student referrals to criminal court and the number of youth exposed to the criminal justice system because of common misbehavior.

As amended:

ED § 37.124. Disruption of Classes

(a) A person other than a primary or secondary grade student enrolled in the school commits an offense if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities.

(b) An offense under this section is a Class C misdemeanor.

(c) In this section:

(1) "Disrupting the conduct of classes or other school activities" includes:

(A) emitting noise of an intensity that prevents or hinders classroom instruction;

(B) enticing or attempting to entice a student away from a class or other school activity that the student is required to attend;

(C) preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend; and

(D) entering a classroom without the consent of either the principal or the teacher and, through either acts of



## SUMMARIES -- 83rd LEGISLATURE -- 2013

**Janet Marton, Senior Assistant County Attorney**  
**Office of Vince Ryan, Harris County Attorney**

misconduct or the use of loud or profane language, disrupting class activities.

(2) "Public property" includes a street, highway, alley, public park, or sidewalk.

(3) "School property" includes a public school campus or school grounds on which a public school is located and any grounds or buildings used by a school for an assembly or other school-sponsored activity.

(d) It is an exception to the application of Subsection (a) that, at the time the person engaged in conduct prohibited under that subsection, the person was younger than 12 years of age.

### ED § 37.126. Disruption of Transportation

(a) Except as provided by Section 37.125, a person other than a primary or secondary grade student commits an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children:

(1) to or from school on a vehicle owned or operated by a county or independent school district; or

(2) to or from an activity sponsored by a school on a vehicle owned or operated by a county or independent school district.

(b) An offense under this section is a Class C misdemeanor.

(c) It is an exception to the application of Subsection (a)(1) that, at the time the person engaged in conduct prohibited under that subdivision, the person younger than 12 years of age.

### PE § 42.01. Disorderly Conduct

(a) A person commits an offense if he intentionally or knowingly:

(1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;

(2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;

(3) creates, by chemical means, a noxious and unreasonable odor in a public place;

(4) abuses or threatens a person in a public place in an obviously offensive manner;

(5) makes unreasonable noise in a public place other than a sport shooting range, as defined by Section 250.001, Local Government Code, or in or near a private residence that he has no right to occupy;

(6) fights with another in a public place;

(7) discharges a firearm in a public place other than a public road or a sport shooting range, as defined by Section 250.001, Local Government Code;

(8) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;

(9) discharges a firearm on or across a public road;

(10) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act; or

(11) for a lewd or unlawful purpose:

(A) enters on the property of another and looks into a dwelling on the property through any window or other opening in the dwelling;

(B) while on the premises of a hotel or comparable establishment, looks into a guest room not the person's own through a window or other opening in the room; or

(C) while on the premises of a public place, looks into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area.

(a-1) For purposes of Subsection (a), the term "public place" includes a public school campus or the school grounds on which a public school is located.

(b) It is a defense to prosecution under Subsection (a)(4) that the actor had significant provocation for his abusive or threatening conduct.

(c) For purposes of this section:

(1) an act is deemed to occur in a public place or near a private residence if it produces its offensive or proscribed consequences in the public place or near a private residence; and

(2) a noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from a magistrate or peace officer that the noise is a public nuisance.

(d) An offense under this section is a Class C misdemeanor unless committed under Subsection (a)(7) or (a)(8), in which event it is a Class B misdemeanor.

(e) It is a defense to prosecution for an offense under Subsection (a)(7) or (9) that the person who discharged the firearm had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

(f) Subsections (a)(1), (2), (3), (5), and (6) do not apply to a person who, at the time the person engaged in conduct prohibited under the applicable subdivision, was a student younger than 12 years of age, and the prohibited conduct occurred at a public school campus during regular school hours.

(g) Noise arising from space flight activities, as defined by Section 100A.001, Civil Practice and Remedies Code, if lawfully conducted, does not constitute "unreasonable noise" for purposes of this section.

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 1114 **Page 2 of 3** **Caption:** relating to the prosecution of certain misdemeanor offenses committed by children and to school district law enforcement

**Effective Date:**

**Application:**

**Statutes**

**Affected:**

**Subject:** School district peace officers and security personnel

**Summary:** Amends ED 37.081 to allow a peace officer, within the officer's jurisdiction, to take a child into custody in accordance with Chapter 52 of the Family Code or CP 45.058;  
School district's chief of police is accountable and reports to the superintendent;

**Subject:** Arrests prohibited for certain Class C misdemeanors

**Summary:** Adds ED 37.085, notwithstanding any other law, to prohibit the issuance of a warrant for the arrest of a person for a Class C misdemeanor under the Education Code committed when the person was younger than 17 years of age;

**Subject:** Disruption of classes

**Summary:** Amends ED 37.124 to except a primary or secondary grade student (any student in grades K-12) enrolled in a school from the commission of the offense of disruption of classes or other school activities on school property or on public property within 500 feet of school property;

**Comments:**

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 1114 **Page 3 of 3** **Caption:** relating to the prosecution of certain misdemeanor offenses committed by children and to school district law enforcement

**Effective Date:**

**Application:**

**Statutes**

**Affected:**

**Subject:** Disruption of transportation

**Summary:** Amends ED 37.126 to exempt a primary or secondary grade student (any student in grades K-12) enrolled in a school from the commission of the offense of disruption of transportation to or from school, or to or from an activity sponsored by a school on a vehicle owned or operated by a county or ISD;

**Subject:** First offender program

**Summary:** Amends FA 52.031 to allow the referral of a child accused of a Class C misdemeanor, other than traffic, to be referred to a first offender program prior to the filing of a complaint with a criminal court; (requires the juvenile board to adopt guidelines and designate law enforcement officers to process a child under the first offender program);  
Before issuing a citation, a law enforcement officer may refer the child to the designated law enforcement officer or agency for disposition under the first offender program and not refer the child to juvenile court for the conduct or file a complaint only if:  
(1) the child has not previously been adjudicated as having engaged in delinquent conduct;  
(2) the referral complies with guidelines; and  
(3) the officer reports in writing the referral to the agency, identifying the child and specifying the grounds for accusing the child of an offense;  
Notice to the parent must state the grounds for accusing the child of a Class C misdemeanor, and warn that the child's failure to complete the program will result in the child being referred to juvenile court for the conduct or the filing of a complaint;

**Subject:** Disorderly conduct

**Summary:** Amends PE 42.01 to define the term "public place" to include a public school campus or the school grounds on which a public school is located;

**Comments:**

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 1365

**Caption:** relating to the provision of credit by examination for public school students

**Effective Date:** 6-14-2013

**Application:** Applies beginning with 2013-2014 school year

**Statutes**

**Affected:**

ED 25.092

**Subject:** Minimum attendance for class credit

**Summary:** Amends ED 25.092 to provide that the minimum attendance requirement for class credit (90% of days the class is offered) does not apply to a student who receives credit by examination for the class;

**Subject:**

**Summary:**

**Subject:**

**Summary:**

**Comments:**

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 1404      **Caption:** relating to attendance at and completion of high school by students who are in the conservatorship of the Department of Family and Protective Services

**Effective Date:** 6-14-2013

**Application:** Applies beginning with the 2013-2014 school year

**Statutes** ED 25.087  
**Affected:** ED 28.025

**Subject:** Excused absences

**Summary:** Amends ED 25.087 to require an ISD to excuse the absence of a student in the conservatorship of the Department of Family and Protective Services if the student is participating in a court ordered activity provided that it is not practicable to schedule the participation outside of school hours;

**Subject:**

**Summary:**

**Subject:**

**Summary:**

**Comments:**

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 1419

**Caption:** relating to funding for juvenile case managers through certain court costs and to the establishment of the truancy prevention and diversion fund

**Effective Date:** 9-1-2013

**Application:** Applies only to an offense committed on or after 9-1-2013

**Statutes** CP 45.056

**Affected:** CP 102.015

**Subject:** Juvenile case managers

**Summary:** Amends CP 45.056 to provide that, on approval of commissioners court or other entities, a county court, justice court, municipal court, school district, juvenile probation department, or other entity may:

- (1) employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians;
- (2) employ one or more juvenile case managers who:
  - (A) shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases; and
  - (B) may provide:
    - (i) prevention services to a child considered at risk of entering the juvenile justice system; and
    - (ii) intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses; or
  - (3) agree to jointly employ a case manager to provide services;

**Subject:** Court costs: Truancy prevention and diversion fund

**Summary:** Adds CP 102.015 to require a person convicted in a justice court of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, to pay a \$2 court cost in addition to other court costs; County may retain 50% of the funds collected for the purpose of operating or establishing a juvenile case manager program if the county has established or is attempting to establish a juvenile case manager program; A person is considered to have been convicted if:

- (1) a sentence is imposed; or
- (2) the defendant receives deferred disposition in the case;

Legislature may appropriate money from the account only to the criminal justice division of the governor's office for distribution to local governmental entities for truancy prevention and intervention services; A local governmental entity may request funds from the criminal justice division of the governor's office for providing truancy prevention and intervention services

**Subject:**

**Summary:**

**Comments:** There is concern that too many juveniles are entering the criminal justice system for the offense of truancy, or failure to attend school, which is a Class C misdemeanor. Interested parties assert that alternatives to adjudicating juveniles for this offense should be pursued, noting that juvenile case managers, who can currently be employed to assist a court with administering the juvenile docket, could provide certain prevention and intervention measures to juveniles prior to their involvement with the criminal justice system. However, the parties contend that additional funds would be needed at the local level to adequately support this function. S.B. 1419 seeks to address this problem by expanding the uses of juvenile case managers and providing for a dedicated account in the general revenue fund for truancy prevention and intervention.

## SUMMARIES -- 83rd LEGISLATURE -- 2013

Janet Marton, Senior Assistant County Attorney  
Office of Vince Ryan, Harris County Attorney

**Bill Number:** SB 1541                      **Caption:** relating to discipline of public school students by school bus drivers

**Effective Date:** 6-14-2013

**Application:** Applies beginning with the 2013-2014 school year

**Statutes Affected:** ED 37.0022

**Subject:** Removal by school bus driver

**Summary:** Adds ED 37.0022 to allow a bus driver transporting students to or from school or a school sponsored or related activity to send a student to the principal's office to maintain effective discipline on the school bus; principal must employ appropriate discipline management techniques;  
Allows the board of trustees to include standards in the student code of conduct under which a student may be removed from a school bus;

**Subject:**

**Summary:**

**Subject:**

**Summary:**

**Comments:** C.S.S.B. 1541 authorizes the driver of a school bus transporting students to or from school or a school-sponsored or school-related activity to send a student to the principal's office to maintain effective discipline on the school bus. The bill requires the principal to respond by employing appropriate discipline management techniques consistent with the student code of conduct. The bill makes statutory provisions regarding the placement of students with disabilities applicable to any placement under the bill's provisions of a student with a disability who receives special education services. The bill's provisions apply beginning with the 2013-2014 school year.