

The background of the slide features a composite image. On the left, the Texas state flag is shown waving, with its characteristic blue field containing a white five-pointed star, and horizontal stripes of white and red. On the right, the Texas State Capitol dome is visible, showing its ornate architectural details and the golden statue on top. The dome's interior is also partially visible, showing a patterned ceiling. A dark red horizontal band is superimposed over the center of the image, containing the title and subtitle text.

# Juvenile Law

**Failure to Attend School and  
Charges Against Parents**



# Compulsory Attendance

- Education Code §25.085.
- Students must attend school each school day for the entire period.
- Who? §25.085(b).
  - Child at least 6 and not yet 18; or
  - Child younger than 6 and previously enrolled in 1<sup>st</sup> grade.



# Compulsory Attendance

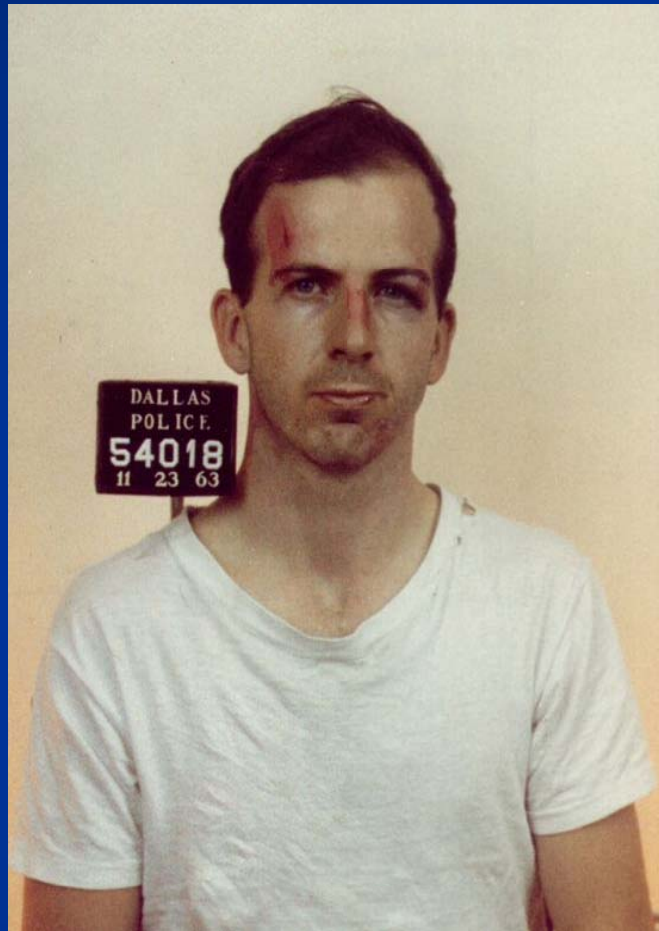
- Education Code §25.085(e).
- If voluntarily in school after 18<sup>th</sup> birthday, person must attend each school day for the entire period.
- Enrollment may be revoked for 5+ absences in a semester.
- Under §37.107, person may then be an unauthorized person on school grounds.



# The “Gateway” Offense



# Where Will the Gateway Lead?



# FTAS vs. Truancy

**Ed.Code §25.094**

**CCP, Ch. 45**

**Criminal Class C**

**Up to \$500 fine**

**No lawyer needed**

**Parent in court**

**Fam.Code §51.03**

**Fam.Code Title III**

**Civil case (CINS)**

**No fine**

**Lawyer needed**

**Can be informal**



# Warning Notices

- Education Code §25.095.
- Required at the beginning of each school year & again when student has 3 absences.
- Notice must inform parent that:
  - Parent is subject to prosecution (§25.093); &
  - Student is subject to prosecution (§25.094) or referral to juvy court if <100,000 population.



# Warning Notices

- Education Code §25.095.
- Notice re: 3 absences must inform parent:
  - Duty to monitor student's attendance & require student to attend school;
  - Subject to prosecution; and
  - Request conference to discuss absences.
- Lack of notice not a defense to prosecution.



# Jurisdiction

- **Family Code §54.021(b).**
- **With consent, truancy cases may be transferred to:**
  - **Constitutional Co. Court, JP or Muni Court.**
- **Education Code §25.094.**
- **Complaint must be filed.**
- **CCP, Ch. 45 applies.**



# Jurisdiction



# Jurisdiction

- Education Code §§25.094(b) & 25.0951.
- FTAS filed in County, JP or Muni Court:
  - Where individual resides; or
  - Where school is located.
- If county has <100,000 population, case can also be referred to juvy court.



# When?

- Education Code §25.0951.
- If required to attend school (§25.085):
- **Permissive Filing**: 3 – 9 days or parts of days missed without an excuse in 4 wks.
- **Mandatory Filing**: 10+ days or parts of days missed without an excuse in 6 mos. in the same school year.



# When?

- Education Code §25.0951.
- **Mandatory Filing**: School Dist. must file w/in 7 school days of student's 10<sup>th</sup> absence.
- School Dist. may:
  - File in County, JP or Muni Court; or
  - File in juvy court if <100,000 population; or
  - Refer to juvy court [FC, §51.03(b)(2) – CINS].
- Court must dismiss if not filed timely.



# GA-0417 (March 27, 2006)

- Does 7-day filing deadline begin after the 10<sup>th</sup> unexcused absence? YES.
- Can case be re-filed by adding new absences?
  - New complaint alleging a subsequent unexcused absence may be filed w/in 7 days of latest unexcused absence.
- May a “3 or more days” complaint be filed if student has 10+ unexcused absences? NO.



# GA-0574 (Oct. 2, 2007)

- **When must a FTAS complaint be filed?**
  - 10 school days after the 10<sup>th</sup> absence.
- **Can a complaint allege dates previously included in a dismissed complaint?**
  - YES, if absences occurred w/in 6 months.
- **Are there penalties besides dismissal?**
  - NO.



# Who?

- Education Code §25.094.
- **“Individual”** commits FTAS if requisite # of days or parts of days missed w/o excuse.
- Allows prosecution of 6 – 17 year olds (or older!).
- Includes individuals not subject to juvy court jurisdiction, i.e., 17 and older.



# Excused Absences

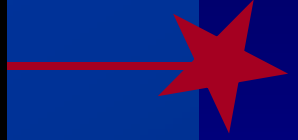
- Education Code §§25.087 & 25.094.
- **Permissive:** Any acceptable cause.
- **Mandatory:** Religious holy days & health care appts.
- **Affirmative Defense:** Absence is excused or involuntary.
- **B of P:** On defendant to show that absence was involuntary.



# How?

- CCP, Art. 45.054.
- Summons **parent** to personally appear & bring the individual to court.
- Failure to Appear = Class C.
- Contempt – Gov't Code §21.002(c).
- CCP Art. 45.055.
- Individual & **parent** must receive notice of expunction rights in open court.





# What?

- CCP, Art. 45.054.
- Court may order one (1) or more:
  - Attend school without unexcused absences;
  - Attend GED prep classes;
  - Take GED (if at least 16-years-old);
  - Attend special programs;
  - Complete reasonable # CSR hours;
  - Participate in tutorial program;
  - Order DPS to suspend or deny DL/permit for up to 12 months.



# What?

- CCP, Art. 45.050.
- For violation of its order the Court may:
  - Refer case to juvy court for delinquent conduct (disobeying a lawful court order); or
  - Retain jurisdiction and:
    - Hold in contempt & fine up to \$500; and/or
    - Order DPS to suspend or deny DL or permit until obligation is fully discharged.



# What?

**Municipal Court**



**FC §45.050  
Contempt – under 17**



**Juvenile Court**

**Delinquent Conduct**



# What?

- CCP, Art. 45.050(b).
- No confinement for:
  - Failure to pay fine or costs imposed;
  - Contempt of another order of JP or Muni Ct.
- May still hold person in contempt & impose fine +/- or DPS order on DL until obligation is fully discharged.



# Parent Contributing to Non-Attendance

- Education Code §25.093.
- Formerly “Thwarting Compulsory Attendance” & “Parent Contributing to Truancy.”
- Class C – \$500 fine.
- Contempt – Gov’t Code §21.002(c).
- Contempt for violation of court order not failure to pay fine!



# Jurisdiction

- Education Code §25.095(a),(b).
  - Warning letter must be sent to parent before criminal complaint is filed.
- Education Code §25.093(a).
  - Complaint: Parent acted with **criminal negligence** by failing to require child to attend school; and
  - Requisite # of unexcused absences.



# Criminal Negligence

- Penal Code §6.03(d).
- Failure to perceive a risk the actor should have perceived.
- Why should parent perceive the risk of child not attending school?
- §25.095(a) warning notice was sent at the beginning of the school year.
- §25.095(b) warning notice was sent when student reached 3+ unexcused absences during a 4 week period.



# Where?

- **Education Code §25.093(b).**
- **If filed in JP or Muni Court:**
  - **Where parent resides; or**
  - **Where school is located.**
- **Constitutional County Court if county has a population of 2 million or more.**



# Who?

- Education Code §25.002.
- **“Parent”** includes a person with legal control of a child under a court order.
- Education Code §§25.091, 25.093, 25.095, 25.0951, 26.002 & CCP, Art. 45.054(h).
- **“Parent”** includes a person standing in parental relation to the child.



# When?

- Education Code §25.0951.
- **Permissive filing**: 3 – 9 days or parts of days missed without an excuse in 4 wks.
- **Mandatory filing**: 10+ days or parts of days missed without an excuse in 6 months in the same school year.
- Now must file within 10 days of last absence.



# What?

- Education Code §25.093(c).
- Each day child remains out of school may constitute a separate offense.
- Cases can be consolidated and tried together.
- Education Code §25.093(h).
- **Affirmative Defense:** Same as FTAS.



# What?

- **Education Code §25.093(f).**
- **Court may order parent to:**
  - **Provide services to charitable organization or educational institution.**
  - **Attend program to help parents identify & resolve failure to attend issues, if such a program is available.**
- **Contempt – Gov't Code §21.002(c).**



# What?

- **Education Code §25.093(d).**
- **Any fines must be deposited:**
  - **1/2 to school district, charter school or JJAEP where child attends school; and**
  - **1/2 to general fund of the municipality or the county if complaint filed in JP or county court.**



# Parents' Failure to Appear

- CCP, Arts. 45.054 & 45.057.
- Summons orders parent to appear personally with the child.
- Summons warning says Failure to Appear may result in arrest & Class C.
- Failure to attend hearing after receiving summons = Class C.



# 2007 Legislative Changes



# HB 2455

- Amends Education Code §25.087(b).
  - Excused absences now include:
    - **Attending a required court appearance.**
    - Travel for this purpose.
    - Reasonable time must be given to make up missed school work on those days.



# SB 1137

- Amends Education Code §25.085(f).
  - School Bds **may** adopt a policy requiring persons **under 21** and voluntarily enrolled in school to attend school until the end of the school year.
  - School Districts can file §25.094 cases.
  - School Districts cannot file §25.093 cases.

Q: How will courts know?



# HB 2884

- Amends Education Code §25.0951.
  - Mandatory FTAS cases must be filed w/in 7 school days of the student's 10<sup>th</sup> absence.
  - Former language read: “last absence.”
  - Legislative response to GA-0417 (2006).



# SB 1161

- Amends Education Code §25.0951.
  - Mandatory FTAS cases must be filed w/in 10 school days of the student's last absence.
  - Former language read: "7 school days."

Q: Anyone see a conflict here?!?



# SB 1137

**NEW!**

- **Adds Education Code §25.092(a-1).**
  - **Students attending at least 75% of class days (not 90%) may receive credit if completing an approved education plan.**
  - **If under court jurisdiction (criminal or juvenile), student may not receive credit without consent of the judge.**



# HB 3060

NEW!

- Adds CCP, Art. 45.0491.
  - JP or Municipal Court may waive payment of a fine or costs if it determines:
    - Defendant is indigent; and
    - Paying fine and costs would impose an **“undue hardship”** on defendant.



# HB 2267

- **Amends CCP, Art. 45.051.**
  - **In fine-only misdemeanor cases, court may offer alternative fine payment options, e.g., installments or CSR or combination.**
  - **Show cause hearing (with notice) to determine compliance.**
  - **Additional time to comply may be given.**



# HB 2884

NEW!

- Adds CCP, Art. 45.054(a-2).
  - In FTAS case, a JP or Municipal Court may not require a student to attend a JJAEP as part of the court's disposition.



# HB 776

**NEW!**

- **Adds Family Code §52.02(a).**
  - A person taking a child into custody may:
  - (7) bring an enrolled student to the student's assigned school campus.
  - Someone at the school must agree to assume responsibility for the child for the rest of the school day.



# HB 776

- **Amends Family Code §52.026(a).**
  - Duty of peace officer who has taken a child into custody to transport child to the:
    - Appropriate detention facility; or
    - School campus to which the child is assigned if not released to a parent or guardian.



# HB 278

- **Amends Education Code §37.102(c).**
  - Only violations of adopted rules regarding operation and parking of vehicles on school property are now Class Cs.
  - No more Class Cs for being tardy or chewing gum!

**Q: Fewer cases in JP & Muni Ct?!?**





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