

TEXAS TRUANCY LAWS

The laws regarding truancy can be found in Chapter 25 of the Education Code, and these laws emphasize the importance of your child attending school all day. Any absences must be excused by their school, and excessive unexcused absences could result in charges being brought against:

- you as a parent for Parent Contributing to Non-attendance, if your child is required by law to attend school; and
- your child for Failure to Attend School, if he or she is 12 years old or older, but not yet 18.

If your child has unexcused absences for **10 or more days** or parts of days **in a 6-month period** the school district MUST file the above charges on the student.

In addition, the school district MAY file on your child if your child has unexcused absences for **3 or more days** or parts of days **in a 4-week period**.

You should receive a warning letter at the beginning of the school year stating you are subject to prosecution if your child fails to attend school for the periods stated above.

Failure to receive this warning is not a defense to prosecution, and you should call the school attendance clerk to ask about your child's absences.

As of September 1, 2013, when the school district files charges, they must also file a statement with the court that indicates: 1) it tried intervention measures to prevent the filing, but that those attempts failed; and 2) whether or not your child receives special education services. If the school district fails to file this statement with its complaint, then the court must dismiss the case.

WHO IS REQUIRED TO ATTEND SCHOOL?

The law doesn't require you to enroll your child in pre-kindergarten or kindergarten. If you do enroll your child, you and your child must follow state attendance laws.

Generally, children who are 6 years old by September 1 must be enrolled in school and must attend until they turn 18. A child is exempt from attendance if the child:

- Attends a private or parochial school;
- Has a temporary, fixable physical or mental condition that makes attendance impracticable and has a doctor's note specifying the condition, indicating the

treatment, and stating the probable time period your child will be absent for the purpose of treatment;

- Is at least 17 years old and
 - Is attending a course to prepare for the high school equivalency exam, and:
 - Has parent permission to attend;
 - Is required by court order to attend;
 - Has established residence apart from the parent or guardian; or
 - Is homeless; or
 - Has received a diploma or equivalency certificate; and
- Meets any other exemption listed in Texas Education Code § 25.086.

WHAT HAPPENS AT COURT?

- Parents or guardians will be summoned to appear before a justice of the peace or municipal-court judge. You must bring the named child if the summons directs you to do so. If a parent receives a summons and doesn't appear with the named child, the parent and the child could each be charged with another Class C misdemeanor for Failure to Appear.
- Juveniles must enter pleas of guilty, not guilty, or no contest (nolo contendere) in open court. Hearings may be open to the public or closed at the discretion of the judge.
- If the student was absent, the student's parent or guardian should bring all documents that show why the student was absent.
- Neither parents nor students receive appointed lawyers in juvenile truancy cases. You can represent yourself, or you can hire a lawyer on your own.

PENALTIES

Failure to Attend School cases and Parent Contributing to Nonattendance cases are **Class C misdemeanors that carry maximum fines up to \$500 on each case plus court costs**.

A judge can enter one of two types of probation with court costs.

1. **A final conviction:** A judge is limited by law to what can be ordered. This will result in a final conviction against you, your child, or both that could show up on a criminal history check. A fine will be imposed.
2. **A deferred disposition:** A deferred disposition delays the end of the case until a period of time has passed. The judge can set conditions that a charged person

has to follow during that period. If the charged person reaches the end of the period without breaking any of those conditions, the case is dismissed. This results in no reportable conviction. A special expense fee will be imposed.

The court has the discretion to order that your child work toward a GED if your child is over 16 years of age and meets other requirements.

The judge could also require your student to perform community service or attend counseling programs.

HOW TO OBTAIN AN EXPUNCTION

An expunction is a legal procedure that essentially erases the legal effects of a criminal conviction. A person whose conviction has been expunged is released from the legal disabilities resulting from a conviction, and the government cannot make the conviction known for any purpose.

A student may obtain an expunction of a truancy conviction if the student has been convicted of only 1 prior attendance violation.

To apply for an expunction, the applicant must pay a \$30 fee and submit a written request that:

1. Is made under oath;
2. States that the applicant has not been convicted of more than one violation of Section 25.094 of the Education Code; and
3. Is in any form determined by the applicant.

The court must expunge a conviction if:

- Before the student's 21st birthday, the student presents the court with proof that he or she has obtained a high school diploma or equivalency certificate (GED); or
- The court finds that the student followed the steps to obtain an expunction and complied with the court-ordered conditions at the time of the conviction.

HOW TO OBTAIN A DISMISSAL

A dismissal means that the charges are dropped, and there is no conviction. The complaint must be dismissed if:

1. The school district files the charges too late. The charges must be filed no later than 10 days after the last day that the school claims the student missed;
2. The student is exempt from attending school;
3. The court lacks jurisdiction (typically when the school files charges on a child who is exempt from attendance); or
4. The person complies with all of the requirements of a deferred disposition.
5. The school district fails to file a statement accompanying the complaint that indicates: 1) it tried intervention measures, but those interventions failed, and 2) whether or not your child receives special education services. This applies to cases filed after September 1, 2013.

FREQUENTLY ASKED QUESTIONS

1. *What if I can't afford to pay the fines and court costs?*
You must make a good faith effort to pay the fine and court costs, and you should tell the court before any money is due. You can request an indigency hearing. At that hearing, you will have to tell the court about your income and other financial obligations. If you qualify, some or all of your fines and court costs could be replaced by an order to perform community service or by credit for the time spent in jail. Also, the judge has the discretion to waive all fines and court costs if the judge finds that they impose a financial hardship.
2. *What if my child and I do not complete the court orders?*
You can ask the court for an extension. If your child violates the court's order, the court could order that your child be taken into custody based upon an affidavit (a written, sworn statement) showing that your child violated the court's order. If an affidavit like that is filed, the court will hold a hearing to determine whether your child violated the court's order. If the court determines that your child did violate

an order, it can hold your child in contempt and impose a fine. Additionally, the court can revoke or deny your child's driver's license. If the order was a deferred-disposition order, the court can find your child guilty of truancy. Parents can also be held in contempt for violating parental court orders. The penalty for contempt is a fine of up to \$100, 3 days in jail, or both. Also, some school districts may report your convictions to social services, which could result in a denial of services to your family.

3. *What happens if we complete our orders?*

If you received a final conviction and completed your orders, your cases will be closed. You may then qualify for an expunction. If you received a deferred disposition, your cases will be dismissed.

IN ADDITION TO THESE STATE LAWS, IT IS IMPORTANT TO KNOW THE POLICIES OF YOUR SCHOOL DISTRICT OR CHARTER SCHOOL.

For Additional Copies Please Contact:

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TRUANCY GUIDE