

Chapter 28: Nondelinquency Proceedings—Truancy Provisions

[28.1] Overview

In the state systems the juvenile courts have been handling truancy since the 1960s³⁸. Today, truancy has become a substantial driver of status offense cases: “In 2010, truancy cases constituted 36 percent (nearly 50,000) of the estimated 137,000 petitioned status offense cases across the country.”³⁹ Truancy stems from a student’s absence from school, as opposed to misconduct. The trigger for a finding of truancy is some set number of unexcused absences that vary state by state (can be anywhere from three to fifteen absences).

However, there is now a movement to use alternatives for arrest, court processing, and detention. State policy makers are seeing an unacceptable number of youth locked up for nonviolent, minor offenses. These include the “status offenses”—acts that are only considered criminal if committed by a juvenile (e.g., running away, truancy, curfew law violations, ungovernability or incorrigibility, and underage drinking violations). Research has shown a significant link between juvenile incarceration and negative outcomes for youth including increased risk of academic failure, dropping out of school, and future involvement in the juvenile and adult criminal justice systems.

Currently, juvenile justice leaders and practitioners are working with school administrators to shift the responsibility for addressing minor student misconduct away from the juvenile justice system and back to the school’s disciplinary systems. This includes launching school-justice partnerships to convene discussions about collaborative solutions to over referrals of cases involving minor student offenses to the courts.

Some state and local governments have established guidelines to help distinguish between offenses that do and do not merit referral to juvenile court. In cases in which school administrators must determine whether a student poses a serious safety threat to others, they may carry out a threat assessment.⁴⁰ Some court officials have developed written agreements describing steps that must

³⁸ Characterizations of state truancy policy and laws are taken from *The School Discipline Consensus Report: Strategies in the Field to Keep Students Engaged in School and Out of the Juvenile Justice System*, Justice Center, The Council of State Governments, Washington, DC (2014).

³⁹ Id. at p. 271.

⁴⁰ E.g., Virginia Model for Student Threat Assessment (MSTA).

precede a school-based referral to the juvenile court.⁴¹ In some states policy makers have changed the laws to restrict school-based referrals by limiting youth's eligibility criteria (e.g., raising the age limit for youth who may be subject to court jurisdiction for particular conduct).⁴² Others have created more stringent statutory thresholds for invoking juvenile justice action for first offenders—for example, the law dictates that to refer a youth to juvenile court for a truancy offense, it must be his or her third charge of misconduct, and there must be evidence that each prior instance was met with a graduated school response.⁴³

A large portion of school-based cases that come to juvenile courts involve truancy. Research suggests that sanction-based interventions are not effective, such as locating youth and getting them back to school with law enforcement, formal court processing, or school disciplinary measures. Instead a more effective intervention is to address the source of truant behavior with a multiagency response targeting the underlying unmet student and family needs (e.g., academic difficulty, family stress, and substance abuse). These interventions would include parent/guardian involvement, a continuum of supports and services, collaboration with community resources (including law enforcement, mental health services, mentoring, and social services), school administrative support, a commitment to keeping youth in the mainstream classroom, and ongoing evaluation. See, for example, the Stark County (OH) Truancy Mediation Program⁴⁴ and the Jefferson County (KY) Truancy Diversion Program.⁴⁵

Juvenile courts and justice agencies should create alternative pathways and programs for students referred to the courts by establishing policies and partnerships. These alternatives should include rehabilitative supports and intervention without formal court involvement or confinement whenever possible. There are multiple points at which a student may be diverted from juvenile justice system processing, for example, from the point of referral (contact with school administrator) or point of arrest (contact with police). At these points the administrator or police office should have discretion to offer alternatives to arrest such as diversion to an alternative court (e.g., teen court, wellness court) or to a school, court, or community-based treatment or other program. See, for example, Florida's "civil citation" alternative⁴⁶, Tennessee's SHAPE program (a multisystem approach that offers mentoring, tutoring, counseling, community service, victim restitution support, and other

⁴¹ Clayton County Juvenile Justice Collaborative Cooperative Agreement, Clayton County, GA, available at <http://thecollaborative.uncc.edu/sites/thecollaborative.uncc.edu/files/media/files/Clayton%20County%20GA%20School%20Referral%20Cooperative%20Agreement%20copy.pdf>, visited 11 August 2014.

⁴² See Texas Senator Whitmire's bill, S.B. 1114, 83d Legi. Sess. (Tx 1114).

⁴³ South Carolina's Truancy Law, State Board Regulation 43-274.

⁴⁴ Stark County, Ohio Diversion Program, www.starkcountyohio.gov.

⁴⁵ J. L. Byer & J. Kuhn, *A Model Response to Truancy Prevention: The Louisville Truancy Court Diversion Project*, 54 *Juvenile and Family Court Journal* 1, p. 59–67 (2003).

⁴⁶ FLA. STAT. §1006.13 and FLA. STAT. §985.12.

individualized services),⁴⁷ Montgomery County Teen Court (eligible participants agree to have their case heard by a volunteer judge and a jury of their peers—a jury made up of high school student volunteers).⁴⁸

Some of the tribal juvenile laws reviewed included the now disfavored sanction-based approach—using the juvenile court system to process truant youth. Others did not address truancy at all. See the tribal example in the following text.

[28.2] Tribal and State Code/MOU Examples

Sault Ste. Marie Tribal Code

CHAPTER 36: JUVENILE CODE

SUBCHAPTER VI: COMPULSORY SCHOOL ATTENDANCE

36.601 School Enrollment Requirement.

Except as excused under the state compulsory attendance law, any person having control [of] a tribal child living on the tribal lands shall enroll the child in school.

36.602 Requirement to Attend School.

Except as excused under the state compulsory attendance law, or under a school policy governing school attendance, any person having control of a tribal child living on the tribal lands age six (6) or older shall cause the child to attend the school in which the child is or should be enrolled.

36.603 Truancy Prohibited.

Truancy by a tribal child living on the tribal lands is prohibited.

36.604 Enforcement Officers.

- (1) Any Tribal Law Enforcement Officer or school attendance officer may enforce the provisions of this subchapter.
- (2) Any person authorized to enforce the provisions of this subchapter may stop and question any person upon reasonable belief that the person has violated this subchapter.

⁴⁷ Shelby County Schools SHAPE MOU at http://www.neglected-delinquent.org/sites/default/files/20101122_SHAPEMOU.pdf.

⁴⁸ Montgomery County (MD) Teen Court available at www.montgomerycountymd.gov/sao/other/TeenCourt.html and www.mdtca.org/mdtca-members/Montgomery-county-teen-court/, visited 22 September 2014.

- (3) If, during school hours, a person authorized to enforce this subchapter has probable cause to believe that a tribal child is truant, the person shall take the child into custody and transport the child to school and deliver the child to school authorities.

36.605 Cooperation with School.

Each school is encouraged and authorized to contact the Tribal Law Enforcement Department on a daily basis and provide the names, ages and custodial information regarding truant tribal children for that day.

36.606 Enforcement Procedure.

The Juvenile Division shall have jurisdiction over cases brought to enforce this subchapter. Proceedings shall be conducted in accordance with the provisions of subchapter V.

Texas Senate Bill 1114 2013–2014 83rd Legislature

SECTION 1. Article 45.058, Code of Criminal Procedure, is amended by adding Subsections (i) and (j) to read as follows:

- (i) If a law enforcement officer issues a citation or files a complaint in the manner provided by Article 45.018 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, the officer shall 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. An attorney representing the state may not proceed in a trial of an offense unless the law enforcement officer complied with the requirements of this subsection.
- (ii) Notwithstanding Subsection (g) or (g-1), a law enforcement officer may not issue a citation or file a complaint in the manner provided by Article 45.018 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.

SECTION 2. Section 25.0915, Education Code, is amended by adding Subsection (c) to read as follows:

- (c) A court shall dismiss a complaint or referral made by a school district under this section that is not made in compliance with Subsection (b).

Florida Statutes 2014

Title XLVIII K-20 EDUCATION CODE

Chapter 1006 SUPPORT FOR LEARNING

1006.13 Policy of zero tolerance for crime and victimization.—

- (1) It is the intent of the Legislature to promote a safe and supportive learning environment in schools, to protect students and staff from conduct that poses a serious threat to school safety, and to encourage schools to use alternatives to expulsion or referral to law enforcement agencies by addressing disruptive behavior through restitution, civil citation, teen court, neighborhood restorative justice, or similar programs. The Legislature finds that zero-tolerance policies are not intended to be rigorously applied to petty acts of misconduct and misdemeanors, including, but not limited to, minor fights or disturbances. The Legislature finds that zero-tolerance policies must apply equally to all students regardless of their economic status, race, or disability.

(Sections Omitted)

- (4)
 - (a) Each district school board shall enter into agreements with the county sheriff's office and local police department specifying guidelines for ensuring that acts that pose a serious threat to school safety, whether committed by a student or adult, are reported to a law enforcement agency.
 - (b) The agreements must include the role of school resource officers, if applicable, in handling reported incidents, circumstances in which school officials may handle incidents without filing a report with a law enforcement agency, and a procedure for ensuring that school personnel properly report appropriate delinquent acts and crimes.
 - (c) Zero-tolerance policies do not require the reporting of petty acts of misconduct and misdemeanors to a law enforcement agency, including, but not limited to, disorderly conduct, disrupting a school function, simple assault or battery, affray, theft of less than \$300, trespassing, and vandalism of less than \$1,000.
- (8) School districts are encouraged to use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety.

Title XLVII CRIMINAL PROCEDURE AND CORRECTIONS

Chapter 985 JUVENILE JUSTICE; INTERSTATE COMPACT ON JUVENILES

985.12 Civil citation.—

- (1) There is established a juvenile civil citation process for the purpose of providing an efficient and innovative alternative to custody by the Department of Juvenile Justice for children who commit nonserious delinquent acts and to ensure swift and appropriate consequences. The department shall encourage and assist in the implementation and improvement of civil citation programs or other similar diversion programs around the state. The civil citation or similar diversion program shall be established at the local level with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency involved. The program may be operated by an entity such as a law enforcement agency, the department, a juvenile assessment center, the county or municipality, or some other entity selected by the county or municipality. An entity operating the civil citation or similar diversion program must do so in consultation and agreement with the state attorney and local law enforcement agencies. Under such a juvenile civil citation or similar diversion program, any law enforcement officer, upon making contact with a juvenile who admits having committed a misdemeanor, may issue a civil citation and assess not more than 50 community service hours, and require participation in intervention services as indicated by an assessment of the needs of the juvenile, including family counseling, urinalysis monitoring, and substance abuse and mental health treatment services. A copy of each citation issued under this section shall be provided to the department, and the department shall enter appropriate information into the juvenile offender information system. Only first-time misdemeanor offenders are eligible for the civil citation or similar diversion program. At the conclusion of a juvenile's civil citation or similar diversion program, the agency operating the program shall report the outcome to the department. The issuance of a civil citation is not considered a referral to the department.
- (2) The department shall develop guidelines for the civil citation program which include intervention services that are based upon proven civil citation or similar diversion programs within the state.
- (3) Upon issuing such citation, the law enforcement officer shall send a copy to the county sheriff, state attorney, the appropriate intake office of the department, or the community service performance monitor designated by the department, the parent or guardian of the child, and the victim.
- (4) The child shall report to the community service performance monitor within 7 working days after the date of issuance of the citation. The work assignment shall be accomplished at a rate of not less than 5 hours per week. The monitor shall advise the intake office immediately upon reporting by the child to the monitor, that the child has in fact

reported and the expected date upon which completion of the work assignment will be accomplished.

- (5) If the child fails to report timely for a work assignment, complete a work assignment, or comply with assigned intervention services within the prescribed time, or if the juvenile commits a subsequent misdemeanor, the law enforcement officer shall issue a report alleging the child has committed a delinquent act, at which point a juvenile probation officer shall process the original delinquent act as a referral to the department and refer the report to the state attorney for review.
- (6) At the time of issuance of the citation by the law enforcement officer, such officer shall advise the child that the child has the option to refuse the citation and to be referred to the intake office of the department. That option may be exercised at any time before completion of the work assignment.

Clayton County Juvenile Justice Collaborative Cooperative Agreement ⁴⁹

I. Purpose of Agreement

This agreement is entered into between the [Juvenile Court], [Public School System], [Police Departments], [Department of Family and Children Services], [District Attorney], [Behavioral Health Services], and the [Department of Juvenile Justice] for the purpose of establishing a cooperative relationship between community agencies (hereinafter referred to as the Parties) involved in the handling of juveniles who are alleged to have committed a delinquent act on school premises. The Parties acknowledge that certain misdemeanor delinquent acts defined herein as the focused acts can be handled by the School System in conjunction with other Parties without the filing of a complaint in the Court. The Parties acknowledge that the commission of these focused acts does not require the finding that a student is a delinquent child and therefore not in need of treatment or supervision. The parties acknowledge that the law requires the Court to make a preliminary determination that a petition be certified in the best interest of the child and the community before it can be filed with the Court. The Parties acknowledge that the Court has the authority to give counsel and advice to a juvenile without the filing of a petition and to delegate such authority to public or private agencies.

The Parties acknowledge that the law expressly prohibits the detention of a student for punishment, treatment, [to] satisfy the demands of the victim, police or the community, [to] allow parents to avoid their legal responsibility, [to] provide more convenient administrative access to the child, and to facilitate further interrogation or investigation. The law allows for

⁴⁹ Internal citations to state statutes omitted.

the detention of a student who is a flight risk, presents a risk of serious bodily injury, or requests detention for protection from imminent harm.

The Parties acknowledge and agree that decisions affecting the filing of a complaint against a student and whether to place restraints on a student and place a student in secure detention should not be taken lightly, and that a cooperative agreement delineating the responsibilities of each party when involved in making a decision to place restraints on a student and to file a complaint alleging the child is a delinquent child would promote the best interest of the student and the community.

The Parties acknowledge and agree that this Agreement is a cooperative effort among the public agencies named herein to establish guidelines for the handling of school related delinquent acts against public order which are defined herein as the focused acts. The Parties further acknowledge and agree that the guidelines contained herein are intended to establish uniformity in the handling of [a] student who has committed one of the focused acts as defined herein while simultaneously ensuring that each case is addressed on a case-by-case basis to promote a response proportional to the various and differing factors affecting each student's case. The parties acknowledge and agree that the manner in which each case or incident is handled by [School Resource Officers (SRO)], school administrator, and/or the Juvenile Court is dependent upon the many factors unique to each child that includes, but is not limited to, the child's background, present circumstances, disciplinary record, academic record, general demeanor and disposition toward others, mental health status, and other factors. Therefore, the parties acknowledge that students involved in the same incident or similar incidents may receive different and varying responses depending on the factors and needs of each student.

Finally, the Parties acknowledge that a Cooperative Agreement has previously been entered into by the [Juvenile Court], [Department of Juvenile Justice], [Department of Family and Children Services], and [Behavioral Health Services] to coordinate intake services to ensure that children who do not present a high risk to re-offend are not detained using a Detention Screening Instrument (DSI) and that children presenting a low to medium risk are returned home or appropriately placed in a non-secured or staff-secured setting. The Parties acknowledge that the prior Agreement remains in full force and effect and is interrelated to this Agreement as part of the Juvenile Detention Alternative Initiative and Collaborative of Clayton, County, Georgia.

II. Definitions

As used in this Agreement, the term:

A. "Student" means a child under the age of 17 years.

- B. “Juvenile” means a child under the age of 17 years, which term is used interchangeably with “Student.”
- C. Omitted
- D. “Intake” means the division of the Juvenile Court responsible for making [and] reviewing complaints to determine which complaints may be handled informally and by diversion, which complaints may be forwarded to the District Attorney’s Office for a petition to be drawn, and which juveniles should be detained in the [Regional Youth Detention Center], or placed at another location, or returned home.
- E. “Detention Screening Instrument” or known also as “DSI” means a risk assessment instrument used by Intake to determine if the juvenile should be detained or released. The DSI measures risk according to the juvenile’s present offense, prior offenses, prior runaways or escapes, and the juvenile’s current legal status such as probation, commitment, etc.
- F. “Detention Assessment Questionnaire” or known also as “DAQ” means a document use[d] to determine if the juvenile presents any mental health disorders, aggravating circumstances, or mitigating circumstances. The DAQ assists Intake in making a final decision regarding detention or release.
- (H. and I. Omitted)
- J. “Bully” is a student who has three (3) times in a school year willfully attempted or threatened to inflict injury on another person, when accompanied by an apparent present ability to do so or has intentionally displayed force such as would give the victim reason to fear or expect immediate bodily harm.
- K. “Focused Acts” are misdemeanor type delinquent acts involving offenses against public order including affray [a noisy fight between two or more people in a public place], disrupting public school, disorderly conduct, obstruction of police (limited to acts of truancy where a student fails to obey and officer’s command to stop or not leave campus), and criminal trespass (not involving damage to property).

III. Terms of Agreement

A. Warning Notice and Referral Prerequisite to Complaint in Cases Where a Student has Committed a Focused Act

Misdemeanor type delinquent acts involving offenses against public order including affray, disrupting public school, disorderly conduct, obstruction of police (limited to acts of truancy where a student fails to obey an officer’s command to stop or not leave campus), and criminal trespass (not involving damage to property) shall not result in the filing of a

complaint alleging delinquency unless the student has committed his or her third or subsequent similar offense during the school year and the Principal or designee has reviewed the behavior plan with the appropriate school and/or system personnel to determine appropriate action. In accordance with O.C.G.A. §20-2-735, the school system's Student Codes of Conduct will be the reference documents of record. The Parties agree that the response to the commission of a focused act by a student should be determined using a system of graduated sanctions, disciplinary methods, and/or educational programming before a complaint is filed with the Juvenile Court. The parties agree that a student who commits one of the focused acts must receive a Warning Notice and a subsequent referral to the School Conflict Diversion Program before a complaint may be filed in the Juvenile Court. An SRO shall not serve a Warning Notice or make a referral to the School Conflict Diversion Program without first consulting with his or her supervisor if the standard operating procedures of the SRO Program of which the SRO belongs requires consultation.

1. **First Offense.** A student who commits one of the focused acts may receive a Warning Notice that his or her behavior is a violation of the criminal code and school policy, and that further similar conduct will result in a referral to the Juvenile Court to attend a diversion program. The SRO shall have the discretion not to issue a Warning Notice and in the alternative may admonish and counsel or take no action.
2. **Referral to School Conflict Diversion Program.** Upon the commission of a second or subsequent focused act in that or a subsequent school year, the student may be referred to Intake to require the student and parent to attend the School Conflict Diversion Program, Mediation Program, or other program sponsored by the Court. However, a student who has committed a second "bullying" act shall be referred to the School Conflict Diversion Program to receive law related education and conflict resolution programming, and may also be required to participate in the mediation program sponsored by the Court for the purpose of resolving the issues giving rise to the acts of aggression and to hold the student accountable to the victim(s). Intake shall make contact with the parent of the child within ten (10) business days of receipt of the notice from the [SRO] or the school to schedule the parent and child to attend the School Conflict Diversion Program, or other program of the Court appropriate to address the student's conduct. Intake shall forward to the school where the child attends a confirmation of the child's successful participation in the diversion program. A child's failure to attend shall be reported to the [SRO] to determine if a complaint should be filed or other disciplinary action taken against the child.
3. **Complaint.** A student receiving his or her third or subsequent delinquent offense against public order may be referred to the Court by the filing of a complaint. If the student has attended a diversion program sponsored by the Court in that year or any previous school year and the student has committed a similar focused act, the student may receive a

Warning Notice warning that the next similar act against the public order may result in a complaint filed with the juvenile court. A student having committed his or her third “bullying” act shall be referred to the Juvenile Court on a juvenile complaint and the Court shall certify said petition provided probable cause exists and if adjudicated shall proceed to determine if said student is delinquent and in need of supervision. The school system shall proceed to bring the student before a tribunal hearing and if found to have committed acts of bullying shall in the least, with consideration given to special education laws expel said child from the school and place in an alternative educational setting, unless expulsion from the school system is warranted. All acts of bullying shall be reported by school personnel and addressed immediately to protect the victims of said acts of bullying.

(B. Omitted)

C. Treatment of Elementary Age Students

Any situation involving violence to the extent that others are placed at risk of serious bodily injury shall constitute an emergency and warrant immediate action by police to protect others and maintain school safety. O.C.G.A. §15-11-150 et seq. sets forth procedures for determining if a juvenile is incompetent [and] also provides for a mechanism for the development and implementation of a competency plan for treatment, habilitation, support, [and] supervision for any juvenile who is determined not to be mentally competent to participate in an adjudication or disposition hearing. Generally, juveniles of elementary age do not possess the requisite knowledge of the nature of court proceedings and the role of the various players in the courtroom to assist his or her defense attorney and/or grasp the seriousness of juvenile proceedings, including what may happen to them at the disposition of the case.

The parties acknowledge that the Court will make diligent efforts to avoid the detention of juveniles who may be mentally incompetent upon reasonable suspicion, unless they pose a high risk of serious bodily injury to others. Furthermore, it is a fundamental best practice of detention decision making to prohibit the intermingling of elementary age juveniles from adolescent youth and to treat elementary age students according to their age and level of development. Furthermore, the parties acknowledge that the commission of a delinquent act does not necessitate the treatment of the child as a delinquent, especially elementary age juveniles in whom other interventions may be made available within the school and/or other agencies to adequately respond to and address the delinquent act allegedly committed by the juvenile.

The Court shall make its diversion, intervention, and prevention programs available to the juvenile without the filing of a complaint upon a referral from the school social worker. Intake shall respond to any and all referrals made by elementary school staff within 24 hours of receipt of the referral. Any delay shall be communicated to the official making the referral

within 24 hours with an explanation for the delay. Intake shall respond no later than 72 hours or the matter shall be referred to the Intake Supervisor or the Chief Probation Officer. In the event an elementary age student is taken into custody and removed from the school environment for the safety of others, the decision to detain said child shall be made by the Intake Officer pursuant to law.

The parties acknowledge that taking a child into protective custody is not a detention decision, which is a decision solely reserved for a juvenile judge or his or her intake officer and therefore requiring law enforcement to immediately contact the Court to determine if the child should be detained or released and under what conditions, if any, if so released.

28.3] Tribal and State Code/MOU Commentary

Truants Processed in Tribal Juvenile Court Family in Need of Services (FINS-type Process). The Sault Ste. Marie statute contains a subchapter making school attendance compulsory and prohibiting truancy. Under the Sault Ste. Marie statute at Section 36.501 it is “a violation of this Chapter for a child to . . . commit a violation of subchapter . . . VI.” Subchapter VI at Section 36.603 prohibits truancy: “Truancy by a tribal child living on the tribal lands is prohibited.” The Sault Ste. Marie statute at Section 36.502 (1) further adopts the 1989 BIA Tribal Juvenile Justice Code requirements for making a request or filing a petition with the Juvenile Court:

“Requests stating that a *juvenile has committed a status offense* (emphasis added) pursuant to this subchapter may be submitted. . . . A request stating that a child is habitually and without justification absent from school may also be submitted by an authorized representative of a local school board or governing authority of a private school.”

Section 36.606 brings truancy within the status offense jurisdiction of the Juvenile Court (as opposed to the “juvenile offender” jurisdiction): “The Juvenile Division shall have jurisdiction over cases brought to enforce this subchapter. Proceedings shall be conducted in accordance with the provisions of subchapter V.” Subchapter V, entitled “Status Offenses,” sets out the court process of youth alleged to be status offenders.

Children under 12/Conduct on School Property—Complaints Barred from Processing in Juvenile Court. The state of Texas, under its amended Code of Criminal Procedure and Education Code, has prohibited the juvenile court processing of complaints filed against youth under twelve where the conduct is alleged to have occurred on school property:

“ . . . a law enforcement officer may not issue a citation or file 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.”

“A court shall dismiss a complaint or referral made by a school district . . . that is not made in compliance with [this section].”

School Zero-Tolerance Policies Do Not Include “Petty Acts of Misconduct.” The State of Florida has amended its zero tolerance for crime policy to not require the reporting of petty acts of misconduct and misdemeanors to law enforcement agencies, and to encourage schools to use alternatives to address disruptive behavior such as restitution, civil citation, teen court, and restorative justice programs. See Section 1006.13 in the preceding text.

Use of “Juvenile Civil Citation Process.” The state of Florida has also established a “civil citation process” that functions somewhat like a traffic ticket for youth. The program may be operated by a selected agency in coordination with the state attorney and local law enforcement agencies. Under this process law enforcement officers are empowered to issue citations to first-time misdemeanor offenders. The youth must admit to committing the misdemeanor and will be assessed up to fifty community service hours and be required to participate in intervention services as indicated by an assessment (including family counseling, urinalysis monitoring, and substance abuse and mental health treatment services). Copies of the citation are forwarded to the Juvenile Department. If the youth fails to report for an assignment, complete an assignment, or comply with intervention services, or if he or she commits a subsequent misdemeanor, the law enforcement officer will issue a report that the youth has committed a delinquent act. This report will be forwarded to the state attorney for the possible filing of a juvenile delinquency petition with the juvenile court. See Section 985.12 in the preceding text.

Use of “Juvenile Justice Collaborative Agreement.” The Clayton County Juvenile Justice Collaborative Cooperative Agreement is an agreement among that county’s juvenile court, public school system, police departments, department of family and children services, district attorney, behavioral health services, and department of juvenile justice. The agreement governs how youth who are alleged to have committed delinquent acts on school premises are handled. The targeted conduct includes what are called “focused acts” including affray (noisy public fights), disrupting public school, disorderly conduct, obstruction of police (truancy and failure to obey law enforcement officer), and criminal trespass (with no property damage). The agreement sets up a warning and referral process for first- and second-time offenders. Students experience a system of graduated sanctions, disciplinary methods, and/or educational programming before a complaint is filed with the juvenile court. This includes possible referral to a school conflict diversion program. See excerpts from the Clayton County Juvenile Justice Collaborative Cooperative Agreement in the preceding text.

[28.4] Exercises

The following exercises are meant to guide you in developing the truancy sections of the tribal juvenile code and any interagency or intergovernmental agreements.

- Find and examine your juvenile code's provisions governing truancy.
 - How is truancy defined?
 - What school, law enforcement, and/or court process is the youth subject to?
 - If the youth is processed in juvenile court which disposition alternatives is he or she subject to?
 - Are truants prohibited from being processed in juvenile court altogether?
- Make a list of the pros and cons of working with the school to exhaust its disciplinary and intervention process before cases might be allowed to come to the juvenile court.
- Make a list of the pros and cons of establishing a law enforcement civil citation process that diverts youth to a precourt diversion program (e.g., teen court).
- Make a list of the services and diversion programs that should be developed and/or contracted for in cooperation with the school and/or the juvenile court for truant youth and their families.

Read and Discuss*

What is “truancy”? Who is at fault? How can you stop it?

Truancy is a symptom of a range of underlying issues. These issues often relate to academic achievement:

- A teenager held back in middle school who sees no point in attending;
- An undiagnosed or mishandled special education need;
- A child who is failing and sees no hope;
- A child who is bullied or sees no social value in attending school.

Or, external barriers may block a child from attending:

- A lack of safe transportation to school or safety at school;
- The need to care for younger children or older relatives;
- Asthma or other medical conditions that have resulted in an extended absence; or

- A school that has not effectively communicated attendance policies and requirements with non-English-speaking parents.

Finally, truancy may be a symptom of larger breakdowns in the youth's family life such as substance abuse, mental illness, or domestic violence.

**Taken from the ABA article by Claire Shubick, *What Social Science Tells Us about Youth Who Commit Status Offenses: Practice Tips for Attorneys*.*