

## **BILL ANALYSIS**

C.S.S.B. 113  
By: Van de Putte  
Public Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current Texas law, a child is eligible for enrollment in a prekindergarten class if the child is at least three years of age and is unable to speak and comprehend the English language; educationally disadvantaged; homeless, the child of an active duty member of the armed forces of the United States; or the child of a member of the armed forces of the United States who was injured or killed while serving on active duty. The Education Code also authorizes school districts to provide tuition-supported or district financed prekindergarten programs for children not covered under Section 29.153.

According to the Texas Education Agency (TEA), if the student is eligible for prekindergarten because the student is homeless, the student must fit the definition of homeless as defined by 42 U.S.C. Section 11302 and also fall within the definition of homeless pursuant to the federal No Child Left Behind Act (NCLB) (42 U.S.C. Section 11434(a)). As defined therein, the term "homeless children and youths" means individuals who lack a fixed, regular, and adequate nighttime residence. This includes, among others, children and youths who are living in emergency or transitional shelters; abandoned in hospitals; or awaiting foster care placement.

Under TEA's interpretation, a foster child is eligible for a prekindergarten program under the NCLB definition of a "homeless" child. However, according to TEA, a foster child who is adopted before enrolling in prekindergarten or who is adopted during the school year and has to move to a different school may no longer qualify for prekindergarten, unless the child meets one of the other eligibility provisions.

As proposed, this bill modifies the current state law regarding a child's eligibility for enrollment in a prekindergarten class by including the definition used in 42 U.S.C. Section 11434(a). The bill also adds a provision to allow a child in foster care or other residential care under state conservatorship to remain eligible for enrollment regardless of a change in that child's status.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

This bill amends Section 29.153(b), Education Code, to provide that a child is eligible for enrollment in a prekindergarten class under such section if the child is at least three years of age and is unable to speak and comprehend the English language; is educationally disadvantaged; is a homeless child, as defined by 42 U.S.C. Section 11434a, regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control of the child; is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority; is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing held as provided by Section 262.201, Family Code.

The bill provides that the Act applies beginning with the 2007-2008 school year.

### **EFFECTIVE DATE**

C.S.S.B. 113 80(R)

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The original bill provided that a child who is eligible for enrollment in a prekindergarten class under Subsection (b)(3) of Section 29.153, Education Code, as amended by this bill, because of the child's placement in foster care or other residential care under the conservatorship of the Department of Family and Protective Services remains eligible for enrollment regardless of whether the child's status under Subsection (b)(3) changes before or after enrolling in the class.

The analogous provision in the substitute provides that a child is eligible for enrollment in a prekindergarten class under Section 29.153, Education Code, as amended by this bill, if the child is at least three years of age and is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing held as provided by Section 262.201, Family Code.