

BILL ANALYSIS

H.B. 350
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, a juvenile in Texas may receive a Class C misdemeanor citation for engaging in certain conduct ranging from disrupting class to truancy. According to a report developed by an organization that promotes justice, data from the Office of Court Administration of the Texas Judicial System reveals that almost 300,000 Class C misdemeanors were issued in 2009 to juveniles in Texas. That same organization reports that children as young as 10 years old receive Class C misdemeanors at school and that the majority of such citations are written for low-level, nonviolent misbehavior. A juvenile and the juvenile's parents must appear in court to resolve a Class C misdemeanor by paying applicable fees and fines and are sometimes required to miss school and work, respectively, in making such appearance in court. A judge has the discretion to require a juvenile to perform community service instead of paying fees and fines but the judge does not have the express authority to require a juvenile to pursue academic enrichment to simultaneously satisfy a fine and replace any classroom instruction that may be lost as a consequence of disciplinary proceedings in the case.

H.B. 350 would permit a justice or judge to require a juvenile defendant charged with a Class C misdemeanor occurring at the juvenile's school to discharge all or part of fines and costs by performing community service hours or tutoring hours through a tutoring program satisfactory to the court.

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

H.B. 350 amends the Code of Criminal Procedure to authorize a justice or judge to require a defendant younger than 17 years of age who is assessed a fine or costs for a Class C misdemeanor occurring in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense to discharge all or part of the fine or costs by performing community service or attending a tutoring program that is satisfactory to the court. The bill authorizes a defendant to discharge an obligation to perform community service or attend a tutoring program by paying at any time the fine and costs assessed. The bill requires a justice or judge to specify the number of hours the defendant is required to work or attend tutoring in the justice's or judge's order requiring the defendant to participate in community service work or a tutoring program.

H.B. 350 authorizes the justice or judge to order the defendant to perform the community service work only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community. The bill requires a governmental entity or nonprofit organization that accepts a defendant to perform community service to agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the justice or judge who ordered the community

service. The bill requires a tutoring program that accepts a defendant to agree to supervise the defendant in the attendance of the tutoring program and report on the defendant's work to the justice or judge who ordered the tutoring.

H.B. 350 prohibits a justice or judge from ordering a defendant to perform more than 16 hours of community service per week or attend more than 16 hours of tutoring per week unless the justice or judge determines that requiring additional hours of work or tutoring does not cause a hardship on the defendant or the defendant's family. The bill provides that a defendant is considered to have discharged not less than \$50 of fines or costs for each eight hours of community service performed or tutoring program attended.

H.B. 350 establishes that a sheriff, an employee of a sheriff's department, a county commissioner, a county employee, a county judge, a justice of the peace, a municipal court judge, an officer or employee of a political subdivision other than a county, a nonprofit organization, or a tutoring program is not liable for damages arising from an act or failure to act in connection with an activity performed by a defendant performing community service or attending a tutoring program under the bill's provisions if the act or failure to act was performed pursuant to court order and was not intentional, grossly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

H.B. 350 authorizes a community supervision and corrections department or a court-related services office to provide the administrative and other services necessary for supervision of a defendant required to perform community service by a justice or judge under the bill's provisions.

H.B. 350 makes a conforming change and provides for the meaning of "family" by reference to the Family Code.

EFFECTIVE DATE

September 1, 2011.