

BILL ANALYSIS

Senate Research Center

S.B. 1114
By: Whitmire; West
Criminal Justice
7/19/2013
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1114 is a response to the criminalization of student behavioral issues. Currently, Texas students may be given a class C misdemeanor ticket for misbehavior. These tickets may result in a fine of up to \$500, time in jail if the ticket goes unaddressed and progresses to the warrant stage, and a criminal record for the student. Measures such as this should be a last resort and not the first option when dealing with youth.

S.B. 1114 creates a progressive sanction model for dealing with school disciplinary issues. This process allows for the correction of behavior through intervention and corrective sanctions before using the criminal justice system. In addition, it allows juvenile case managers who currently work for courts that hear juvenile cases, mostly truancy, to intervene and work with a student prior to the student being referred to court.

The purpose of this legislation is to correct misbehavior while decreasing the number of referrals to court and the number of youth exposed to the criminal justice system.

S.B. 1114 amends current law relating to the prosecution of certain misdemeanor offenses committed by children and to school district law enforcement.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

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

(i) Requires the officer, if a law enforcement officer issues a citation or files a complaint in the manner provided by Article 45.018 (Complaint) 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, to 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. Prohibits an attorney representing the state from proceeding in a trial of an offense unless the law enforcement officer complied with the requirements of this subsection.

(j) Prohibits a law enforcement officer, notwithstanding Subsection (g) (relating to authorizing a law enforcement officer to issue a field release citation in place of taking a child into custody for a traffic offense) or (g-1) (relating to authorizing a law enforcement officer to issue a field release citation in place of taking a child into custody only if the officer releases the child to the child's parent or responsible adult), from issuing a citation or filing 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. Amends Section 25.0915, Education Code, by adding Subsection (c), to require a court to dismiss a complaint or referral made by a school district under this section that is not made in compliance with Subsection (b) (relating to requiring that certain information be included with referrals filed to courts).

SECTION 3. Amends Section 37.001(a), Education Code, to require that the student code of conduct, in addition to establishing standards for student conduct, to specify the circumstances, in accordance with this subchapter, under which a student is authorized to be removed from a classroom, campus, disciplinary alternative education program, or vehicle owned or operated by the district and provide, as appropriate for students at each grade level, methods, including options, for managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district. Makes nonsubstantive changes.

SECTION 4. Amends Sections 37.081(b), (c), and (f), Education Code, as follows:

(b) Provides that, in a peace officer's jurisdiction, a peace officer commissioned under this section is authorized to, in accordance with Chapter 52 (Proceedings Before and Including Referral to Juvenile Court), Family Code, or Article 45.058 (Children Taken into Custody), Code of Criminal Procedure, take a child, rather than juvenile, into custody.

(d) Requires a school district peace officer to perform law enforcement duties, rather than administrative and law enforcement duties, for the school district as determined by the board of trustees of the school district.

(f) Requires the chief of police of the school district police department to be accountable to the superintendent and to report to the superintendent, rather than to the superintendent or the superintendent's designee.

SECTION 5. Amends Subchapter C, Chapter 37, Education Code, by adding Section 37.085, as follows:

Sec. 37.085. ARRESTS PROHIBITED FOR CERTAIN CLASS C MISDEMEANORS. Prohibits a warrant, notwithstanding any other provision of law, from being issued for the arrest of a person for a Class C misdemeanor under this code committed when the person was younger than 17 years of age.

SECTION 6. Amends Section 37.124(a), Education Code, to provide that a person other than a primary or secondary grade student enrolled in the school commits an offense if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities.

SECTION 7. Amends Section 37.126(a), Education Code, to provide that, except as provided by Section 37.125 (Exhibition of Firearms), a person other than a primary or secondary grade student commits an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children.

SECTION 8. Amends Section 52.031, Family Code, by adding Subsection (a-1) and amending Subsections (d), (f), (i), and (j), as follows:

(a-1) Authorizes a child accused of a Class C misdemeanor, other than a traffic offense, to be referred to a first offender program established under this section prior to the filing of a complaint with a criminal court.

(d) Authorizes a law enforcement officer taking a child into custody for conduct described by Subsection (a) (relating to authorizing a juvenile board to establish a first offender program) or before issuing a citation to a child for an offense described by Subsection (a-1) to refer the child to the law enforcement officer or agency designated under Subsection (b) (relating to requiring each juvenile board to designate one or more law enforcement officers and agencies) for disposition under the first offender program

and not refer the child to juvenile court for the conduct or file a complaint with a criminal court for the offense only if the officer reports in writing the referral to the agency, identifying the child and specifying the grounds for taking the child into custody or for accusing the child of an offense.

(f) Requires that the notice to a child's parent, guardian, or other custodian that the child has been referred for disposition under the first offender program state the grounds for taking the child into custody for conduct described by Subsection (a), or for accusing the child of an offense described by Subsection (a-1) and state that the child's failure to complete the program will result in the child being referred to the juvenile court for the conduct or a complaint being filed with a criminal court for the offense.

(i) Provides that the case of a child who successfully completes the first offender program is closed and is prohibited from being referred to juvenile court or filed with a criminal court, unless the child is taken into custody under circumstances described by Subsection (j)(3).

(j) Requires that the case of a child referred for disposition under the first offender program be referred to juvenile court or, if the child is accused of an offense described by Subsection (a-1), filed with a criminal court if:

(1) the child fails to complete the program;

(2) the child or the parent, guardian, or other custodian of the child terminates the child's participation in the program before the child completes it; or

(3) the child completes the program but is taken into custody under Section 52.01 (Taking into Custody; Issuance of Warning Notice) before the 90th day after the date the child completes the program for conduct other than the conduct for which the child was referred to the first offender program.

SECTION 9. Amends Section 42.01, Penal Code, by adding Subsection (a-1), to provide that, for purposes of Subsection (a) (relating to intentionally or knowingly committing an offense), the term "public place" includes a public school campus or the school grounds on which a public school is located.

SECTION 10. (a) Provides that, except as provided by Subsection (b) of this section, application of the changes in law made by this Act is prospective.

(b) Provides that Section 37.085, Education Code, as added by this Act, applies to an offense committed before, on, or after the effective date of this Act.

SECTION 11. Effective date: September 1, 2013.