

BILL ANALYSIS

Senate Research Center
83R7155 ADM-F

S.B. 1114
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Criminal Justice
3/22/2013
As Filed

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.

As proposed, 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 Articles 45.056(a) and (c), Code of Criminal Procedure, as follows:

(a) Authorizes a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity, on approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, to employ a case manager or agree, in accordance with Chapter 791 (Interlocal Cooperation Contracts), Government Code, to jointly employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers, or referred to the case manager by a school administrator or designee before a complaint is filed with a court for a school offense, as defined by Section 37.141, Education Code, that would otherwise be within the court's jurisdiction, if the juvenile offender and the juvenile offender's parent or guardian consent to the referral to the case manager, rather than agree in accordance with Chapter 791, Government Code, to jointly employ a case manager.

(c) Authorizes a county or justice court on approval of the commissioners court or a municipality or municipal court on approval of the city council to employ one or more juvenile case managers to assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases, and provide intervention services, with the consent of the juveniles and the juveniles' parents or guardians, to juveniles considered at-risk of entering the juvenile justice system and referred to the case manager

by school administrators before cases are filed with the court for alleged Class C misdemeanors, other than traffic offenses.

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 required information for referrals filed to courts).

SECTION 3. Amends Chapter 37, Education Code, by adding Subchapter E-1, as follows:

SUBCHAPTER E-1. PROGRESSIVE SANCTIONS FOR CERTAIN
MISDEMEANOR OFFENSES

Sec. 37.141. DEFINITIONS. Defines "child" and "school offense" in this subchapter.

Sec. 37.142. CONFLICT OF LAW. Provides that, to the extent of any conflict, this subchapter controls over any other law applied to a school offense alleged to have been committed by a child.

Sec. 37.143. CITATION PROHIBITED; CUSTODY OF CHILD. (a) Prohibits a peace officer from issuing a citation to a child who is alleged to have committed a school offense.

(b) Provides that this subchapter does not prohibit a child from being taken into custody under Section 52.01 (Taking into Custody; Issuance of Warning Notice), Family Code.

Sec. 37.144. PROGRESSIVE SANCTIONS. (a) Requires a school district employee, before filing a complaint under Section 37.145 against a child alleging the commission of a school offense, to impose progressive sanctions on the child. Requires the employee, under the progressive sanctions, to:

(1) issue a warning letter to the child and the child's parent or guardian that specifically states the child's alleged school offense and explains the consequences if the child engages in additional misconduct; or

(2) impose a behavior contract on the child that must:

(A) be signed by the child, the child's parent or guardian, and an employee of the school; and

(B) include a specific description of the behavior that is required or prohibited for the child; the period for which the contract will be effective, not to exceed 45 school days after the date the contract becomes effective; and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court.

(b) Authorizes the school, in addition to the progressive sanctions imposed under Subsection (a), to refer the child to services which are authorized to include school-based community service and counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems.

(c) Authorizes a referral made under Subsection (b) to include participation by the child's parent or guardian if necessary.

Sec. 37.145. COMPLAINT. (a) Authorizes the school, if a child fails to comply with or complete progressive sanctions under Section 37.144, to file a complaint against the child with a criminal court in accordance with Section 37.146.

(b) Authorizes a school, notwithstanding Section 37.144(a), to file a complaint alleging the commission of a school offense with a criminal court in accordance with Section 37.146 against a child if the school has imposed progressive sanctions on the child for three or more previous school offenses committed during the same semester as the current school offense.

Sec. 37.146. REQUISITES OF COMPLAINT. (a) Requires a complaint alleging the commission of a school offense to, in addition to the requirements imposed by Article 45.019 (Requisites of Complaint), Code of Criminal Procedure:

(1) be sworn to by a person who has personal knowledge of the underlying facts giving rise to probable cause to believe that an offense has been committed; and

(2) be accompanied by a statement from a school employee stating whether the child is eligible for or receives special services under Subchapter A (Educational Programs), Chapter 29, and the progressive sanctions that were imposed on the child before the complaint was filed.

(b) Authorizes a summons, after a complaint has been filed under this subchapter, to be issued under Articles 23.04 (In Misdemeanor Case) and 45.057(e) (relating to a justice or municipal court endorsing a summons), Code of Criminal Procedure.

SECTION 4. Amends Section 37.081(f), Education Code, to require that the chief of police of the school district police department be accountable to the superintendent and to report to the superintendent, rather than to the superintendent or the superintendent's designee.

SECTION 5. Amends Section 8.07, Penal Code, by adding Subsections (d) and (e), as follows:

(d) Prohibits a person, notwithstanding Subsection (a) (relating to prohibiting a person from being prosecuted when a certain age), from being prosecuted for or convicted of an offense described by Subsection (a)(4) (relating to a person prosecuted for an offense unless it was a misdemeanor punishable by fine only) or (5) (relating to a person prosecuted for an offense unless it was a violation of a penal ordinance of a political subdivision) that the person committed when younger than 12 years of age.

(e) Provides that a person who is at least 12 years of age but younger than 15 years of age is presumed incapable of committing an offense described by Subsection (a)(4) or (5). Authorizes this presumption to be refuted if the prosecution proves to the court by a preponderance of the evidence that the actor had sufficient capacity to understand that the conduct engaged in was wrong at the time the conduct was engaged in. Provides that the prosecution is not required to prove that the actor at the time of engaging in the conduct knew that the act was a criminal offense or knew the legal consequences of the offense.

SECTION 6. Amends Section 42.01, Penal Code, by adding Subsection (a-1), to provide that, for purposes of Subsection (a) (relating to a person committing an offense), the term "public place" includes a public school campus or the school grounds on which a public school is located.

SECTION 7. Makes application of the changes in law made by this Act prospective.

SECTION 8. Effective date: September 1, 2013.