

BILL ANALYSIS

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S.B. 108
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1114 and S.B. 393 from the 83rd Legislature, Regular Session, 2013, both address ticketing of students at school. There were a few sections in each bill that addressed the same issues, but in slightly different ways. Over the interim there were a series of meetings held to oversee how these bills were being implemented. S.B. 108 is a cleanup bill meant to address these issues.

S.B. 108 strikes out one reason for dismissal of failure to attend classes. The court cannot dismiss a conviction and this section applies to convictions. There is still Article 45.051, Code of Criminal Procedure, which allows for deferral and already provides that the complaint is dismissed if the student complies with the order under Article 45.052. Therefore, the language is removed.

S.B. 108 changes the definition of a child for purposes of filing complaints for behavior at schools to at least 10 years of age and younger than 18 years of age.

Some students have multiple cases for the same time frame. This bill allows for an individual to get more than one failure to attend case dismissed or expunged.

Lastly, the bill clarifies that no officer is permitted to issue citations at school by adding law enforcement officer and school resource officer to Section 37.143(a) of the Education Code.

As proposed, S.B. 108 amends current law relating to criminal procedures for certain misdemeanor offenses committed by children.

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 45.054(i), Code of Criminal Procedure, as follows:

(i) Requires a county, justice, or municipal court to dismiss the complaint against an individual alleging that the individual committed an offense under Section 25.094 (Failure to Attend School), Education Code, if the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate, rather than the court finds that the individual has successfully complied with the conditions imposed on the individual by the court under this article or the individual presents to the court proof that the individual has obtained a high school diploma or a high school equivalency certificate. Makes nonsubstantive changes.

SECTION 2. Amends Articles 45.055(a), (b), and (c), Code of Criminal Procedure, as follows:

(a) Authorizes an individual convicted of a violation, rather than convicted of not more than one violation, of Section 25.094 (Failure to Attend School), Education Code, on or after the individual's 18th birthday, to apply to the court in which the individual was convicted to have the conviction and records relating to the conviction expunged, except

as provided by Subsection (e) (providing that an offense under this section is a Class C misdemeanor).

(b) Requires an applicant, to apply for an expunction, to submit a written request that is made under oath and is in the form determined by the applicant:

(1) Makes a nonsubstantive change;

(2) Redesignates Subdivision (3) as Subdivision (2). Deletes existing text requiring an applicant, in a written request to apply for an expunction, to state that the applicant has not been convicted of more than one violation of Section 25.094, Education Code.

(c) Requires the court, after receiving the application, to order the conviction to be expunged from the applicant's record together with all complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency. Prohibits the conviction from being shown or made known for any purpose after entry of the order and releases the applicant from all disabilities resulting from the conviction. Requires the court to inform the applicant of the expunction, rather than the court's decision on the application. Deletes existing text authorizing the court to expunge the conviction and records relating to the conviction without a hearing or, if the facts are in doubt, to order a hearing on the application. Deletes existing text relating to the court finding that the applicant has not been convicted of more than one violation of Section 25.094, Education Code.

SECTION 3. Amends Article 45.058(g), Code of Criminal Procedure, as follows:

(g) Authorizes a law enforcement officer to issue a field release citation as provided by Article 14.06 (Must Take Offender Before Magistrate) in place of taking a child into custody for a traffic offense or an offense punishable by fine only, except as provided by Subsection (g-1) (authorizing a law enforcement officer to issue a field release citation only if the officer releases the child to the child's parent, guardian, custodian, or other responsible adult) and Section 37.143(a) (prohibiting a peace officer from issuing a citation to a child who is alleged to have committed a school offense), Education Code.

SECTION 4. Amends Section 37.141(a)(1), Education Code, to redefine "child."

SECTION 5. Amends Section 37.143(a), Education Code, to prohibit a peace officer, law enforcement officer, or school resource officer from issuing a citation to a child who is alleged to have committed a school offense.

SECTION 6. Repealer: Article 45.055(e) (requiring a court to expunge an individual's conviction under Section 25.094, Education Code, under certain conditions), Code of Criminal Procedure.

SECTION 7. (a) Provides that except as provided by Subsection (b) of this section, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. Makes application of this Act prospective.

(b) Provides that Article 45.055, Code of Criminal Procedure, as amended by this Act, applies to the expunction of a record or file on or after the effective date of this Act regardless of whether the offense that is the subject of the record or file was committed before, on, or after the effective date of this Act.

SECTION 8. Effective date: September 1, 2015.