

By: Whitmire, et al.
(Thompson of Harris)

S.B. No. 108

Substitute the following for S.B. No. 108:

By: Dutton

C.S.S.B. No. 108

A BILL TO BE ENTITLED

AN ACT

relating to certain criminal procedures for misdemeanor offenses
committed by children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 45.0216(h), Code of Criminal Procedure,
is amended to read as follows:

(h) Records of a person under 17 years of age relating to a
complaint [~~dismissed as provided by Article 45.051 or 45.052~~] may
be expunged under this article if:

(1) the complaint was dismissed under Article 45.051
or 45.052 or other law; or

(2) the person was acquitted of the offense.

SECTION 2. Section 45.052(a), Code of Criminal Procedure,
is amended to read as follows:

(a) A justice or municipal court may defer proceedings
against a defendant who is under the age of 18 or enrolled full time
in an accredited secondary school in a program leading toward a high
school diploma for not more than 180 days if the defendant:

(1) is charged with an offense that the court has
jurisdiction of under Article 4.11 or 4.14[~~, Code of Criminal~~
~~Procedure~~];

(2) pleads nolo contendere or guilty to the offense in
open court with the defendant's parent, guardian, or managing
conservator present;

(3) presents to the court an oral or written request to attend a teen court program or is recommended to attend the program by a school employee under Section 37.146, Education Code; and

(4) has not successfully completed a teen court program in the year [~~two years~~] preceding the date that the alleged offense occurred.

SECTION 3. Article 45.058(g), Code of Criminal Procedure, is amended to read as follows:

(g) Except as provided by Subsection (g-1) and Section 37.143(a), Education Code, a law enforcement officer may issue a field release citation as provided by Article 14.06 in place of taking a child into custody for a traffic offense or an offense punishable by fine only.

SECTION 4. Section 37.141(1), Education Code, is amended to read as follows:

(1) "Child" means a person who is:

(A) a student; and

(B) at least 10 years of age and younger than 18 years of age [~~has the meaning assigned by Article 45.058(h), Code of Criminal Procedure, except that the person must also be a student~~].

SECTION 5. Section 37.143(a), Education Code, is amended to read as follows:

(a) A peace officer, law enforcement officer, or school resource officer may not issue a citation to a child who is alleged to have committed a school offense.

SECTION 6. Section 37.146, Education Code, is amended by adding Subsection (c) to read as follows:

1 (c) A complaint under this subchapter may include a
2 recommendation by a school employee that the child attend a teen
3 court program under Article 45.052, Code of Criminal Procedure, if
4 the school employee believes attending a teen court program is in
5 the best interest of the child.

6 SECTION 7. (a) Except as provided by Subsection (b) of this
7 section, the changes in law made by this Act apply only to an
8 offense committed on or after the effective date of this Act. An
9 offense committed before the effective date of this Act is governed
10 by the law in effect on the date the offense was committed, and the
11 former law is continued in effect for that purpose. For purposes of
12 this section, an offense was committed before the effective date of
13 this Act if any element of the offense occurred before that date.

14 (b) The change in law made by this Act to Article
15 45.0216(h), Code of Criminal Procedure, applies to arrest records
16 and files created before, on, or after the effective date of this
17 Act.

18 SECTION 8. This Act takes effect September 1, 2015.