

By: Whitmire

S.B. No. 108

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Article 45.054(i), Code of Criminal Procedure,
is amended to read as follows:

(i) A county, justice, or municipal court shall dismiss the
complaint against an individual alleging that the individual
committed an offense under Section 25.094, Education Code, if[+]

~~[(1) the court finds that the individual has
successfully complied with the conditions imposed on the individual
by the court under this article; or~~

~~[(2)]~~ the individual presents to the court proof that
the individual has obtained a high school diploma or a high school
equivalency certificate.

SECTION 2. Articles 45.055(a), (b), and (c), Code of
Criminal Procedure, are amended to read as follows:

(a) Except as provided by Subsection (e), an individual
convicted of a ~~[not more than one]~~ violation of Section 25.094,
Education Code, may, on or after the individual's 18th birthday,
apply to the court in which the individual was convicted to have the
conviction and records relating to the conviction expunged.

(b) To apply for an expunction, the applicant must submit a
written request that:

1 (1) is made under oath; and

2 (2) [~~states that the applicant has not been convicted~~
3 ~~of more than one violation of Section 25.094, Education Code, and~~
4 ~~(3)~~] is in the form determined by the applicant.

5 (c) After receiving the application [~~The court may expunge~~
6 ~~the conviction and records relating to the conviction without a~~
7 ~~hearing or, if facts are in doubt, may order a hearing on the~~
8 ~~application. If the court finds that the applicant has not been~~
9 ~~convicted of more than one violation of Section 25.094, Education~~
10 ~~Code~~], the court shall order the conviction, together with all
11 complaints, verdicts, sentences, and other documents relating to
12 the offense, including any documents in the possession of a school
13 district or law enforcement agency, to be expunged from the
14 applicant's record. After entry of the order, the applicant is
15 released from all disabilities resulting from the conviction, and
16 the conviction may not be shown or made known for any purpose. The
17 court shall inform the applicant of the expunction [~~court's~~
18 ~~decision on the application~~].

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

21 (g) Except as provided by Subsection (g-1) and Section
22 37.143(a), Education Code, a law enforcement officer may issue a
23 field release citation as provided by Article 14.06 in place of
24 taking a child into custody for a traffic offense or an offense
25 punishable by fine only.

26 SECTION 4. Section 37.141(a)(1), Education Code, is amended
27 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. Article 45.055(e), Code of Criminal Procedure, is repealed.

SECTION 7. (a) 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. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

(b) 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. This Act takes effect September 1, 2015.