

## **BILL ANALYSIS**

C.S.S.B. 108  
By: Whitmire  
Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Recent legislation addressed the issuance of citations to students for a school offense, but observers note that some issues were treated in slightly different ways by different pieces of legislation. During the interim, a series of meetings was held to oversee the implementation of the legislation. C.S.S.B. 108 seeks to address issues brought to light by these meetings.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 108 amends the Code of Criminal Procedure to expand the conditions under which the expunction of records of a person under 17 years of age relating to a complaint is authorized to include the conditions that the complaint was dismissed under any law or that the person was acquitted of the offense. The bill applies this change to arrest records and files created before, on, or after the bill's effective date. The bill expands eligibility for a defendant in a proceeding before a justice or municipal court who is under 18 years of age or enrolled full time in an accredited secondary school in a program leading toward a high school diploma to participate in a teen court program to include a defendant who is recommended to attend the program by a school employee under the bill's provisions and who meets other applicable requirements. The bill reduces from two years to one year the amount of time preceding the date of the alleged offense in which a defendant in a proceeding before a justice or municipal court must not have successfully completed a teen court program in order to be eligible to participate in such a program.

C.S.S.B. 108 amends the Education Code to redefine "child," for purposes of the criminal procedure applicable to a school offense, as a person who is a student and at least 10 years of age and younger than 18 years of age, rather than as a person who is a student, at least 10 years of age and younger than 17 years of age, and charged with or convicted of an offense under the jurisdiction of a justice or municipal court. The bill prohibits a law enforcement officer or school resource officer from issuing a citation to a child who is alleged to have committed a school offense. The bill authorizes a complaint alleging the commission of a school offense to include a recommendation by a school employee that the child attend a teen court program if the school employee believes attending a teen court program is in the best interest of the child.

**EFFECTIVE DATE**

September 1, 2015.

**COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 108 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

ENGROSSED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Article 45.0216(h), Code of Criminal Procedure, is amended.

SECTION 1. Same as engrossed version.

No equivalent provision.

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 2. Article 45.058(g), Code of Criminal Procedure, is amended.

SECTION 3. Same as engrossed version.

SECTION 3. Section 37.141(1), Education Code, is amended.

SECTION 4. Same as engrossed version.

SECTION 4. Section 37.143(a), Education Code, is amended.

SECTION 5. Same as engrossed version.

No equivalent provision.

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

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

SECTION 5. (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) The change in law made by this Act to Article 45.0216(h), Code of Criminal Procedure, applies to arrest records and files created before, on, or after the effective date of this Act.

SECTION 6. This Act takes effect September 1, 2015.

SECTION 7. Same as engrossed version.

SECTION 8. Same as engrossed version.