

- SUBJECT:** County sheriff and constable enforcement of municipal juvenile curfews
- COMMITTEE:** Urban Affairs — favorable, without amendment
- VOTE:** 8 ayes — Y. Davis, Alvarado, Gutierrez, Kent, Miklos, Pierson, C. Turner, Walle
- 2 nays — C. Howard, Fletcher
- 1 absent — Mallory Caraway
- WITNESSES:** For — Cedric Davis
- Against — Tim Lambert, Texas Home School Coalition; (*Registered, but did not testify*: Stephen Casey; Jessica Cassidy, American Civil Liberties Union of Texas; Julie Drenner, Texans for Family Values PAC; Jonathan Saenz, Free Market Foundation; Steve Spencer)
- BACKGROUND:** Local Government Code, sec. 341.905 authorizes general-law municipalities to establish juvenile curfew ordinances. A violation of such ordinances in these cities is considered a class C misdemeanor (maximum fine of \$500).
- DIGEST:** HB 1886 would allow a general-law or home-rule municipality that adopted a juvenile curfew ordinance to authorize the county sheriff or the constable of the county precinct in which the municipality was located to enforce the ordinance.
- The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.
- SUPPORTERS SAY:** HB 1886 would help home-rule and general-law cities that have police shortages combat crime and enforce juvenile curfews. Daytime juvenile curfews are seen as an important law enforcement tool in fighting gangs and other juvenile crime. Many smaller municipalities struggle to recruit police officers because they are unable to offer what larger cities can in salary and benefits. The bill would allow home-rule and general-law cities

to grant concurrent jurisdiction to county sheriffs and constables, and allow them to stop students who were out of school, rather than wait for a crime to be committed.

The bill's language is permissive and would not require home-rule or general-law cities to adopt juvenile curfew ordinances, nor would it require sheriffs and constables to enforce them. The bill also would not increase or extend any curfews currently in place. If a home-schooled or tutored student were found outside during the curfew hours, the law enforcement officer could call the child's home and verify the child's status. Students who work during school hours could obtain a work release form that could be presented to an officer.

**OPPONENTS
SAY:**

This bill could have the unintended consequence of increasing harassment of home-schooled students. Police officers are not always aware of the law, and there have been past cases where home-schooled students were stopped on their way to a pharmacy or doctor's office to help an ill family member. Some home-schooled students are tutored, so their parents or other family members are not always at home to verify their status. HB 1886 also could stifle interest in university-model schools and other programs that encourage tutoring outside of the classroom. This bill also could encourage more cities to adopt juvenile curfews beyond what was necessary and beyond what their law enforcement personnel could handle.

NOTES:

Rep. Miklos is expected to offer an amendment stating that the bill would apply only to a general-law or home-rule municipality that had adopted a juvenile curfew ordinance and would require any city that adopted a daytime juvenile curfew either to exempt home-schooled students who had permission from a parent or guardian to be in a public place or to provide that it was an affirmative defense to prosecution for violating a curfew ordinance that a student found outside during curfew hours was home-schooled and had permission from a parent or guardian to be in a public place.