

SUBJECT: Limiting the ticketing of students on school campuses and buses

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Gallego, Hartnett, Burkett, Carter, Y. Davis  
2 nays — Christian, Zedler  
2 absent — Aliseda, Rodriguez

SENATE VOTE: On final passage, April 26 — 30-1 (Nelson)

WITNESSES: For — Kathryn Freeman, Texas Appleseed; Frank Knaack, American Civil Liberties Union of Texas; Marc Levin, Texas Public Policy Foundation Center for Effective Justice; (*Registered, but did not testify*: Lon Craft, Texas Municipal Police Association; Trae Morris, Texas Association School District Police; Lauren Rose, Texans Care for Children; Erica Surprenant, Texas Criminal Justice Coalition)  
  
Against — None

DIGEST: SB 1116 would prohibit a law enforcement officer from issuing a citation or filing a complaint for conduct by a child younger than 12 that allegedly occurred on school property or in a vehicle owned or operated by a county or independent school district.

The bill also would require an officer who issued a citation or filed a complaint for conduct by a child 12 years of age or older that allegedly occurred on school property or in a vehicle owned or operated by a county or independent school district to submit to the court the offense report, a statement by a witness to the alleged conduct, and a statement by a victim of the alleged conduct, if any. A prosecutor would not be allowed to proceed with a trial on the offense unless the officer complied with these requirements.

SB 1116 would exclude primary and secondary grade students from those who could commit the offense of disruption of class or the offense of disruption of transportation. The bill would specify that for the offense of

disorderly conduct in a public place, a public place would include a public school campus or school grounds on which a public school was located.

The bill would require a student code of conduct to specify the circumstances under which a student could be removed from a vehicle owned or operated by the district. The student code of conduct also would have to provide methods and options for managing students on a vehicle owned or operated by the district.

The bill would take effect September 1, 2011, and would apply only to offenses committed on or after that date.

**SUPPORTERS  
SAY:**

SB 1116 would decriminalize immature behavior while leaving the necessary tools intact to address dangerous or violent behavior.

SB 1116 would curb the practice of tickets being given to children at school for noncriminal activities, like chewing gum and falling asleep in class. Millions of citations have been issued to students, and research has shown that most citations are issued for noncriminal behavior. Research shows that the citations for noncriminal misbehavior do not improve behavior and are given disproportionately to disabled and minority students.

Records indicate that disruption of class was the citation most commonly used to issue a citation for noncriminal behavior, so SB 1116 would exempt certain students from disruption of class and disruption of transportation offenses. SB 1116 would prohibit a student under 12 from receiving a class C misdemeanor (maximum fine of \$500) citation. Legal remedies are just not the way to address the noncriminal misbehavior of any child under 12.

SB 1116 would require an officer who issued any citation on school property to submit to the court the offense report, a statement by any witness, and a statement by any victim, for the prosecutor to be able to proceed with a trial. This would provide transparency and would serve to verify that criminal behavior, rather than just childish behavior, was the cause for the citation.

For serious offenses, like fighting in school, SB 1116 would empower school peace officers by adding schools to the public places in which a person could be guilty of disorderly conduct.

OPPONENTS  
SAY:

By limiting who could receive tickets, SB 1116 could reduce the tools available to school districts to handle students who continuously misbehave. Schools sometimes try to handle these students through one-on-one discussions and working with their parents, but when that does not work, tickets can be an effective tool. The flexibility in current law to handle students who misbehave should not be reduced.

OTHER  
OPPONENTS  
SAY:

SB 1116 could violate the separation-of-powers doctrine by attempting to bar a prosecutor from proceeding to trial on a case without an act by a third party — in this case the officer's submission of the offense report and statements.