

## **BILL ANALYSIS**

Senate Research Center

S.B. 108  
By: Whitmire; West  
Criminal Justice  
7/24/2015  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 1114 and S.B. 393 from the 83rd Legislature, Regular Session, 2013, both address ticketing of students at school. There were a few sections in each bill that addressed the same issues, but in slightly different ways. Over the interim there were a series of meetings held to oversee how these bills were being implemented. S.B. 108 is a cleanup bill meant to address these issues.

S.B. 108 amends current law relating to certain criminal procedures for misdemeanor offenses committed by children.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 45.0216(h), Code of Criminal Procedure, as follows:

(h) Authorizes the records of a person under 17 years of age relating to a complaint to be expunged under this article if:

- (1) the complaint was dismissed under Article 45.051 (Suspension of Sentence and Deferral of Final Disposition) or 45.052 (Dismissal of Misdemeanor Charge on Completion of Teen Court Program) or other law; or
- (2) the person was acquitted of the offense.

Makes nonsubstantive changes.

SECTION 2. Amends Section 45.052(a), Code of Criminal Procedure, as follows:

(a) Authorizes a justice or municipal court to 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) Makes a nonsubstantive change;
- (2) Makes no change to this subdivision;
- (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 (Requisites of Complaint), Education Code; and
- (4) has not successfully completed a teen court program in the year preceding, rather than two years preceding, the date that the alleged offense occurred.

SECTION 3. Amends Article 45.058(g), Code of Criminal Procedure, to authorize a law enforcement officer to issue a field release citation as provided by Article 14.06 (Must Take Offender Before Magistrate) in place of taking a child into custody for a traffic offense or an

offense punishable by fine only, except as provided by Subsection (g-1) (authorizing a law enforcement officer to issue a field release citation only if the officer releases the child to the child's parent, guardian, custodian, or other responsible adult) and Section 37.143(a) (prohibiting a peace officer from issuing a citation to a child who is alleged to have committed a school offense), Education Code.

SECTION 4. Amends Section 37.141 (a)(1), Education Code, to redefine "child."

SECTION 5. Amends Section 37.143(a), Education Code, to prohibit a peace officer, law enforcement officer, or school resource officer from issuing a citation to a child who is alleged to have committed a school offense.

SECTION 6. Amends Section 37.146, Education Code, by adding Subsection (c), to authorize that a complaint under this subchapter include a recommendation by a school employee that the child attend a teen court program under Article 45.052 (Dismissal of Misdemeanor Charge on Completion of Teen Court Program), Code of Criminal Procedure, if the school employee believes attending a teen court program is in the best interest of the child.

SECTION 7. (a) Provides that, 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. Makes application of this Act prospective.

(b) Provides that 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 8. Effective date: September 1, 2015.