

## **BILL ANALYSIS**

Senate Research Center  
84R17812 ADM-D

C.S.S.B. 108  
By: Whitmire  
Criminal Justice  
3/25/2015  
Committee Report (Substituted)

### **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. C.S.S.B 108 is a cleanup bill meant to address these issues.

C.S.S.B. 108 strikes out one reason for dismissal of failure to attend cases. The court cannot dismiss a conviction and this section applies to convictions. There is still Section 45.051, Code of Criminal Procedure, which allows for deferral and already provides that the complaint is dismissed if the student complies with the order under Section 45.052. Therefore the language is removed.

C.S.S.B. 108 changes the definition of a child for purposes of filing complaints for behavior at schools to at least 10 years of age and younger than 18 years of age.

C.S.S.B. 108 clarifies that no officer is permitted to issue citations at school by adding law enforcement officer and school resource officer to Section 37.143(a) of the Education code.

C.S.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 Article 45.058(g), Code of Criminal Procedure, as follows:

(g) Authorizes 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 3. Amends Section 37.141 (a)(1), Education Code, to redefine "child."

SECTION 4. 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 5. (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 6. Effective date: September 1, 2015.