

- SUBJECT:** Limiting ticketing of students on school campuses and buses
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Herrero, Carter, Burnam, Canales, Hughes, Leach, Moody, Schaefer, Toth
- 0 nays
- SENATE VOTE:** On final passage, April 11 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** *(On House companion, HB 3057:)*
For — *(Registered, but did not testify:* Jennifer Carreon, Texas Criminal Justice Coalition; Kathryn Freeman, Texas Appleseed; Marc Levin, Texas Public Policy Foundation Center for Effective Justice; Andrea Marsh, Texas Fair Defense Project; Lauren Rose, Texans Care for Children; Matt Simpson, ACLU of Texas; Steven Tays, Bexar County Criminal District Attorney’s Office)
- Against — *(Registered, but did not testify:* Lon Craft, TMPA; James Jones San Antonio Police Department)
- DIGEST:** SB 1114 would prohibit law enforcement officers from issuing citations or filing complaints for conduct by children younger than 12 years old that allegedly occurred on school property or on a vehicle owned or operated by a county or independent school district.
- The bill would require law enforcement officers who issued citations or filed complaints accusing children 12 years or older of offenses to submit to the court an offense report, a statement by a witness, and a statement by a victim. This would apply to offenses that were alleged to have occurred on school property or on a vehicle owned or operated by a county or school district. Prosecutors could not proceed in a trial unless the law enforcement officer met these requirements.
- The Education Code offenses of disruption of class and disruption of transportation would no longer apply to primary and secondary grade students enrolled in the school where the offense occurred.

The bill would include in the definition of “public place” under the Penal Code’s offense for disorderly conduct a public school campus and the school grounds.

Children accused of any class C misdemeanor (maximum fine of \$500), other than a traffic offense, could be referred to a first-offender program before a complaint was filed with a criminal court. The cases of children who successfully completed first-offender programs for class C misdemeanors could not be referred to the court if certain conditions in current law were met.

SB 1114 would prohibit arrest warrants for persons with class C misdemeanors under the Education Code for an offense committed when the person was younger than 17 years old.

School district peace officers no longer would be authorized to perform administrative duties for a school district but would be limited to their current authority to perform law enforcement duties. The authority of these officers to take children into custody, which currently must be done in accordance with the Family Code, also could be done in accordance with Code of Criminal Procedure, art. 45.0058, which governs children taken into custody.

Chiefs of school district police departments no longer would be authorized to report to a superintendent’s designee, only to the superintendent.

The bill would require student codes of conduct to specify the circumstances under which a student could be removed from a vehicle owned or operated by a district. A code of conduct also would have to include appropriate options for managing students at each grade level on these vehicles.

Courts would be required to dismiss complaints or referrals for truancy made by a school district if they were not accompanied by currently required statements about whether truancy prevention measures were applied in the case and whether the student was eligible for special education services.

The bill would take effect September 1, 2013, and would apply to offenses committed on or after that date. The bill’s provisions prohibiting arrest

warrants for class C misdemeanors issued under the Education Code for an offense committed when a person was younger than 17 years old would apply to offenses before, on, or after the bill's effective date.

**SUPPORTERS
SAY:**

SB 1114 would help address the problem of law enforcement officers issuing tickets to young students for common or immature misbehaviors that would be best handled by other means while leaving in place the necessary tools to address more serious criminal behavior. Ticketing practices vary across districts, so a uniform, statewide policy is needed.

By prohibiting students younger than 12 years old from receiving class C misdemeanor citations for behavior on school property or in school vehicles, the bill would curb the practice of ticketing children at school for noncriminal activities, such as chewing gum, pushing a peer, sleeping in class, or throwing a paper airplane. Issuing tickets for these types of offenses is counterproductive because it often does not improve behavior and pulls these young children into the criminal justice system. Legal remedies are not the way to address the noncriminal misbehavior of children younger than 12.

The bill also would exempt students in primary and secondary school from disruption of class and disruption of transportation offenses because these offenses should be used to address behavior by persons who are not students at that school.

Schools and law enforcement officers would continue to have the full range of other tools to handle these situations. Officers could focus on criminal behavior, and schools could handle discipline issues. Peace officers would retain authority to handle more serious, criminal offenses on school property and by students. For serious offenses, such as fighting in school, SB 1114 would empower school peace officers by adding schools to the public places in which a person could be guilty of disorderly conduct under the Penal Code.

SB 1114 would require an officer who issued any citation on school property to a child 12 years old or older to submit to the court the offense report, a statement by any witness, and a statement by any victim before the prosecutor could 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. This requirement would not burden officers because it would be consistent with what officers have to

do when issuing citations outside of schools.

Prohibiting arrest warrants for persons given citations before they turned 17 years old would ensure that youths were not arrested years later for something they did as a child that violated the Education Code. This would not eliminate whatever obligation they might have to a court; it only would prohibit arrest.

Removing authority for law enforcement officers to handle administrative duties would help free officers from duties such as dress code violations. This would allow them to focus on more troublesome behavior.

By allowing students issued class C misdemeanors for school offenses to attend first-offender programs, the bill would increase the options for handling these cases. Many jurisdictions and courts have adopted these programs for children involved in the juvenile justice system. Through training and education in several different areas, these programs can improve a child's behavior and decision-making skills, and they should be available to youths receiving tickets.

**OPPONENTS
SAY:**

By limiting who could receive tickets and what they could be issued for, SB 1114 would reduce the flexibility available to school districts to handle students who continuously misbehave. Sometimes, when other methods of addressing this behavior do not work, tickets can be an effective tool. The flexibility in current law should not be reduced.