

SUBJECT: Offense for adults who fail to appear in court with a child

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 9 ayes — Goodman, Staples, J. Jones, McClendon, McReynolds, Naishtat, A. Reyna, Smith, Williams

0 nays

WITNESSES: For — Stella Ortiz Kyle, Greater San Antonio Crime Prevention Commission; Michael O'Neal, Texas Municipal Courts Association

Against — None

On — Robert L. (Bob) Green, Jr., Primary Nurturing Fathers of Texas and Texas Fathers Alliance

BACKGROUND : The Family Code authorizes justice or municipal courts to hear cases involving children charged with certain misdemeanor offenses. The court must issue a summons ordering a parent, managing conservator or guardian of the child to appear personally at the hearing. If the responsible adult fails to appear at the hearing, the court may issue a contempt of court citation. Such citations can incur jail time.

DIGEST: HB 115 would punish as a Class C misdemeanor (maximum \$500 fine) the failure of a responsible adult to attend a hearing with a child after receiving an order from a justice or municipal court hearing certain misdemeanor charges. The bill would remove contempt as a means of enforcing court orders in these circumstances.

The bill would take effect September 1, 1997.

SUPPORTERS SAY: The contempt process is so cumbersome and costly that it is not feasible for many justice and municipal courts to use it. Persons in contempt must be personally served with a citation, have the right to a court-appointed attorney if they cannot afford their own lawyer, and may receive a short jail sentence. These factors often make contempt cases prohibitively expensive for municipalities and counties. Therefore, responsible adults frequently go

unpunished when they violate a court order to appear with a child charged with certain misdemeanors. HB 115 would solve this problem by replacing the unwieldy contempt process with a Class C misdemeanor offense that would be more effective, easier to administer, and more compatible with the limited resources of municipalities and counties.

The Family Code already allows the Class C misdemeanor to be used to enforce court orders for parents, managing conservators or guardians to appear with children in truancy cases. HB 115 would help justice and municipal courts enforce their orders equally successfully in many other types of cases.

The bill would clearly provide that a Class C misdemeanor occurs only if the responsible adult fails to attend a hearing "after receiving an order." Failure to receive notice would be an affirmative defense in court.

HB 115 would get the parent into court and involved in the child's case much earlier. This is vital because many of today's violent juvenile offenders have a long history of minor offenses. The more effectively the municipal and justice courts can deal with children and parents at an early stage, the more likely it is that a child can be deterred from continuing to commit minor offenses and graduating to violent offenses.

OPPONENTS
SAY:

Under HB 115, responsible adults could be prematurely punished for not attending a hearing about which they had no knowledge. The bill should contain safeguards to prevent such a possibility, requiring that the responsible adult "knowingly" or "intentionally" failed to attend a hearing before being charged with a Class C misdemeanor.

OTHER
OPPONENTS
SAY:

HB 115 should differentiate between custodial and non-custodial parents rather than using the general term "parent." Non-custodial parents probably would not be able to appear with their child since they usually do not have custody or control of the child.

NOTES:

A similar bill, HB 2113 by Rodriguez, has been referred to the Juvenile Justice and Family Issues Committee.