

SUBJECT: Increasing the penalty for trespassing on school district grounds

COMMITTEE: Public Education — favorable, as amended

VOTE: 8 ayes — Grusendorf, Branch, Dawson, Dutton, Jr., Eissler, Griggs, Hochberg, Madden

0 nays

1 absent — Oliveira

WITNESSES: For — Tim Bacon, Texas State Teachers Association; Amy Beneski, Texas Association of School Boards; Marty DeLeon, Texas Association of School Boards; Harley Eckhart, Texas Elementary Principals and Supervisors Association; Lonnie Hollingsworth, Texas Classroom Teachers Association; Jo-Hannah Whitsett, Association of Texas Professional Educators

Against — None

On — Robert Dawson

BACKGROUND: Penal Code, sec. 30.05 establishes an offense for criminal trespass. Generally, criminal trespass is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

Education Code, sec. 37.107 establishes an offense for trespassing on school district grounds. An offense is punishable by a class C misdemeanor (maximum fine of \$500).

DIGEST: HB 2103, as amended, would repeal Education Code, sec. 37.107. It also would specify that a person whose enrollment had been revoked that entered and remained on school district grounds would be subject to prosecution under Penal Code, sec. 30.05.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 2103 would impose the standard Penal Code penalty for trespassing on school grounds to improve school safety for students and staff. Unfortunately, current law establishes a weaker penalty for trespassing on school grounds. Legal doctrine requires an offense to be prosecuted under the most specific statute that applies. The bill would repeal the weaker statute so that school administrators could use the more punitive criminal trespass statute to discourage unauthorized entry of school grounds. Repealing the weaker statute also would help establish a more uniform penalty for trespassing.

Trespassing is a common problem for educators, especially on large, sprawling campuses. In high schools, students who have been kicked out, drop-outs, or students from other schools might visit a campus to cause problems for students attending classes or vandalize school facilities. In elementary schools, school administrators need stronger tools to prevent or discourage strangers from entering school property. The bill would make Texas schools safer by increasing the penalty for trespass.

**OPPONENTS
SAY:**

This bill should not create a harsher penalty for trespassing on school grounds. Many instances of trespassing on school grounds could be unintentional or harmless, such as students from other schools arriving on campus to meet their friends. Such offenses are not equivalent to a person trespassing on private property and should not be punishable under the Penal Code. In fact, many teenagers might not even be aware that they are trespassing.

The criminal trespass statute in the Penal Code contains specific exceptions that warrant lesser or more severe penalties, thus acknowledging that some forms of trespass are more serious than others. This bill would fail to establish uniform penalties for trespassing and instead would attach an inappropriately harsh penalty to the less serious offense of trespassing on school grounds.

NOTES:

The committee amendment would reinstate a provision struck by the original bill and specify that a person whose enrollment had been revoked that entered and remained on school grounds would be subject to prosecution under Penal Code, sec. 30.05.