

SUBJECT: Enhanced penalties for drug offenses within 1,000 feet of a youth center

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Keel, Riddle, Ellis, Hodge, Pena, Talton

0 nays

3 absent — Denny, Dunnam, P. Moreno

WITNESSES: For — Ken Coughlin, Wichita Falls Police Department; Katherina Phillips, Operation Crackdown and Eastside Girls and Boys Club

Against — None

BACKGROUND: The Texas Controlled Substances Act (Health and Safety Code, ch. 481) provides penalties for possession, manufacture, and delivery of controlled substances. Sec. 481.134 provides enhanced penalties if the offense occurs in one of the following drug-free zones:

- in, on, or within 1,000 feet of premises owned, rented, or leased by a school, an institution of higher learning, or a playground;
- in, on, or within 300 feet of the premises of a public or private youth center, public swimming pool, or video arcade facility; or
- on a school bus.

A youth center is any recreational facility or gymnasium that is intended primarily for use by people age 17 or younger and that regularly provides athletic, civic, or cultural activities.

DIGEST: HB 797 would increase the penalty for a controlled substance offense that is committed in, on, or within 1,000 feet, rather than 300 feet, of a youth center.

The bill would take effect September 1, 2003.

SUPPORTERS SAY: HB 797 would bring consistency to the law by increasing penalties for drug offenses that occur within 1,000 feet of a youth center. Current law already

punishes drug offenses that occur within 1,000 feet of a school or playground more harshly, but the drug-free zone around youth centers is limited to 300 feet, which puts children in harm's way.

HB 797 would provide more protection to youths who regularly attend these centers after school. When drug dealers congregate near youth centers, children are exposed to drugs, shootings, and other violent crimes that often accompany drug deals. Also, directors at youth centers are prevented from taking children to nearby gardens and other places, and parents often have trouble picking up their children because the streets are blocked. Expanding the safety zone to 1,000 feet would create a safer environment for youths, their parents, and youth center employees.

Although drug offenders who commit offenses outside the 300-foot restricted zone still can be prosecuted for drug crimes, the penalties are insufficient to deter the behavior or even incarcerate the offender. The crimes often are plea bargained down to a misdemeanor, which is little more than a slap on the wrist. Enhanced penalties should apply to offenses within a 1,000-foot radius of a youth center to deter would-be offenders from bringing their drugs near young people. It is unreasonable to ask youth centers to move away from the criminal element, because that is expensive and the centers often are located centrally to the children they serve.

**OPPONENTS
SAY:**

HB 797 is unnecessary. The current drug-free zone of 300 feet, or the length of a football field, is sufficient to protect children at youth centers from drug crimes. Also, while schools and playgrounds easily are identified by offenders, who are on notice of increased penalties, youth centers are not always clearly marked. An offender could commit an offense within 1,000 feet of a youth center without realizing it, in which case it would be unfair to punish the offender more harshly.

**OTHER
OPPONENTS
SAY:**

If the Legislature increased the radius of the drug-free zone around a youth center, it also should do so for a video arcade facility and a public pool, because youths congregate in those places after school.