

(The House considered SB 1237 by Estes, the Senate companion bill, in lieu of HB 2378, the House version of the bill, which had been set on the daily calendar and was analyzed by the House Research Organization. The bill subsequently was enacted as SB 1237.)

HOUSE
RESEARCH

ORGANIZATION bill analysis

5/8/2009

HB 2378

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SUBJECT: Permitting juvenile probation officers to carry firearms

COMMITTEE: Public Safety — favorable, without amendment

VOTE: 8 ayes — Merritt, Frost, Burnam, Driver, P. King, Lewis, Rodriguez, Vo

0 nays

1 absent — Mallory Caraway

WITNESSES: For — Jason Davis; Adam DeHoyos, Brian Waddell, Wichita County Juvenile Probation Department; David Wigley, Crosby County Probation; (*Registered, but did not testify*: Lee Norman, Garza County; Niel Parsons, Pete Rodriguez, Wichita County Juvenile Probation Department)

Against — (*Registered, but did not testify*: Samuel Gunter, Texas Criminal Justice Coalition; Cindy Segovia, Bexar County Commissioners Court and Juvenile Probation Office; Katherine Zackel, Texans Care for Children)

BACKGROUND: Human Resources Code, sec. 141.066 prohibits juvenile probation, detention, or corrections officers from carrying firearms in the course of their official duties.

Penal Code, sec. 46.15 (a) (3) exempts adult community supervision and corrections department officers from the prohibition against carrying weapons as long as those officers are on duty while carrying a weapon and are authorized to carry a weapon by the Government Code.

DIGEST: HB 2378 would amend Human Resources Code, sec. 142 to permit a juvenile probation officer to carry a firearm in the course of official duties if:

- the juvenile probation officer held a certificate of firearms proficiency from the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE); and
- the county's juvenile probation office authorized its officers to

carry firearms while on duty.

The bill would provide that this section would not affect the sovereign immunity of the state, a state agency, or a political subdivision.

HB 2378 also would amend Human Resources Code, sec. 141.066 and Penal Code, sec. 46.15 to allow juvenile probation officers to carry weapons during the course of their official duties.

Other provisions of the bill would require the Texas Juvenile Probation Commission and TCLEOSE to develop a firearms training and certification program for juvenile probation officers by January 1, 2010.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS
SAY:**

HB 2378 would grant juvenile probation officers the same authority as adult probation officers to carry firearms while on duty as long as they were properly trained and certified. The bill would impose no mandate on counties, and the decision to allow juvenile probation officers to carry weapons would be made on a local basis.

Much like adult probation officers, juvenile probation officers encounter dangerous situations on a daily basis. Kids as young as 10 or 11 years of age join gangs and carry guns. In many cases, the youngster is not the problem, and the probation officer has to cope with adult family members.

Juvenile probation officers could ask for a law enforcement officer escort, but in rural counties that kind of backup would not be readily available. Also, the presence of a uniformed police officer or deputy could interfere with the interactions between the juvenile probation officer and the juvenile under supervision.

HB 2378 would require special training programs for juvenile probation officers and would emphasize the legal limitations on the use of firearms. The instruction would be tailored to the specific needs of these officers.

**OPPONENTS
SAY:**

Arming juvenile probation officers would send the wrong message. National reports show that the best indicator of future success by juveniles

on probation is the strength of the relationship between the young person and his or her probation officer. It is difficult enough to establish rapport with juveniles, especially those involved in the criminal justice system. It would be more difficult to get them to talk freely with an armed authority figure.

Authorizing juvenile probation officers to carry firearms would make them more likely to use deadly force. If they are threatened, they would try to protect themselves with the gun. It would be hard to stop anyone from acting on this kind of instinct.

NOTES:

The companion bill, SB 1237 by Estes, passed the Senate by 29-1 (Zaffirini) on April 24 and has been referred to the House Public Safety Committee.