

SUBJECT: Exempting persons under age 13 from certain campus disruption offenses

COMMITTEE: Public Education — committee substitute recommended

VOTE: 9 ayes — Eissler, Hochberg, Allen, Aycock, Guillen, Huberty, Shelton, T. Smith, Strama

0 nays

2 absent — Dutton, Weber

WITNESSES: For — Yannis Banks, Texas NAACP; Deborah Fowler, Texas Appleseed; Frank Knaack, American Civil Liberties Union of Texas; Jeanne Meurer; Claudia Smith; Lee Spiller; Marcelo Tafoya, LULAC; Ana Yanez-Correa, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Ellen Arnold, Texas PTA; Gary Bledsoe, Texas NAACP; Monty Exter, Association of Texas Professional Educators; Madeline McClure, TexProtects and the Texas Association for the Protection of Children; Jeff Miller, Disability Rights Texas; Jim Moore; Alvin Quinton, Diakonos Ministries; Lauren Rose, Texans Care for Children)

Against — None

On — Vikrant Reddy, Texas Public Policy Foundation

BACKGROUND: Under Education Code, sec. 37.124, a person commits a class C misdemeanor (maximum fine of \$500) if the person, on school property or on public property within 500 feet of school property, intentionally disrupts classes or other school activities.

Under sec. 37.126, a person commits a class C misdemeanor (maximum fine of \$500) if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children to or from school or an activity sponsored by a school on a vehicle owned or operated by a school district. An offense involving a firearm would be a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

Penal Code, sec. 42.01 defines disorderly conduct as behavior occurring in a public place, including knowingly using abusive, indecent, profane, or

vulgar language, making an offensive gesture or display, abusing or threatening a person, and fighting, any of which constitutes a class C misdemeanor (maximum fine of \$500).

Sec. 42.01(a)(7) - sec. 42.01(a)(11) further define disorderly conduct to include unlawful display or discharge of a firearm, indecent exposure, or lewd behavior, any of which constitutes a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

**DIGEST:**

CSHB 3758 would exempt a person younger than 13 years old from the intended disruption offenses in Education Code, secs. 37.124 and sec. 37.126. It also would exempt a person younger than 13 years old from the disorderly conduct offenses in Penal Code, sec. 42.01(a)(1) through sec. 42.01(a)(6) if the conduct occurred at a public school campus during regular school hours.

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, 2011, and would apply only to offenses committed on or after the effective date.