

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: CS/SB 68a

48th Legislature, 1st Session, 2007

Short Title: School District Delinquency Petition Notices

Sponsor(s): Senator Steven P. Neville and Others

Analyst: David Harrell

Date: March 6, 2007

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR SENATE BILL 68

AS AMENDED

The House Education Committee amendments strike the entire bill and replace it with a new section that:

- **requires the Public Education Department and the Children, Youth and Families Department jointly to promulgate rules for the development and implementation of an education and management plan for a child who poses a danger to himself or herself or to the community and who is adjudicated as a delinquent or arrested for a crime that, upon adjudication, may make the child a youthful offender or a serious youthful offender;**
- **requires the rules to require meetings of appropriate school officials and other parties to discuss and develop the plan and to promote a safe educational environment for the child, other students, and staff;**
- **requires the rules to comply with specified state and federal laws; and**
- **prescribes that all records and information obtained in the development of an education and management plan are subject to the confidentiality and penalty provisions of state law.**

Original Bill Summary:

CS/SB 68 enacts a new section in the *Delinquency Act* in the *Children's Code* to require the Children, Youth and Families Department (CYFD) to notify the superintendent of the school district in which a child resides or is currently enrolled and the head administrator of any charter school or private school that a child attends within 30 days of the child's being adjudicated for any one of a number of serious offenses. The offenses include such serious crimes as murder, assault to commit a violent felony, kidnapping, aggravated battery, shooting at a dwelling or vehicle, dangerous use of explosives, criminal sexual penetration or criminal sexual contact with a minor, aggravated stalking, robbery, aggravated burglary, aggravated arson, and child abuse that results in great bodily harm or death.

The bill further provides:

- that this required notification shall become part of the child’s school record until it is purged for one of the following reasons:
 - the records relating to the adjudication have been sealed pursuant to the provisions of the *Delinquency Act*;
 - the child obtains a high school diploma or GED certificate; or
 - the child has not attended any school in the school district for three years;
- that all reference to a delinquency petition filed concerning the child is confidential and not subject to disclosure, except to authorized employees and agents of the school district or private school who have a legitimate education interest as defined in the federal *Family and Educational Rights and Privacy Act*;
- that the purpose of the bill is to protect the child who is the subject of the petition, to protect other students and school staff, and to assure a safe educational environment; and
- that the notification of the filing of adjudication must not be used to stigmatize the child who has been adjudicated.

Finally, CS/SB 68 requires CYFD and the Public Education Department (PED) to promulgate rules to implement these school notification procedures, including purging the records.

Original Fiscal Impact:

CS/SB 68 makes no appropriation.

Original Issues:

The provisions of CS/SB 68 would seem to apply to a student adjudicated as a “youthful offender” under the *Delinquency Act* – that is, a child 14 to 18 years old at the time of an alleged offense such as those enumerated in the bill.

Prior to adjudication, as provided elsewhere in the *Delinquency Act*, complaints alleging delinquency must be referred to Probation Services, which must conduct a preliminary inquiry to determine the best interests of the child and the public, perhaps referring the matter to another agency in an attempt to “obviate the necessity for filing a petition.” The Children’s Court may file a petition alleging delinquency if the Children’s Court attorney, in consultation with Probation Services, determines that the filing of the petition is in the best interest of the public and the child. Except as otherwise provided in the *Children’s Code*, any child subject to the *Delinquency Act* has the same basic rights as an adult.

CS/SB 68 seems to have addressed most of the legal issues raised in the CYFD and PED analyses of the original bill. At least one concern remains, however: that the bill does not provide consequences for non-reporting or indicate the use that a school district, charter school, or private school may make of the information, other than that the information not be used to stigmatize the child who has been adjudicated.

Related Bills:

HB 32 *Delinquency Petition Notices to Schools*
HB 738a *Public Disclosure of Child Info*